

## MOBILE APP TRANSPARENCY

### I. Preamble: Principles Guiding App Transparency

This is a voluntary code of conduct for mobile application short notices developed through the Multi-stakeholder Process on Application Transparency convened by the United States Department of Commerce. The purpose of these short form notices is to provide consumers who interact directly with apps enhanced transparency about apps' data collection and sharing practices.

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**Comment:** Multiple comments came in regarding how to exclude deeper device-layer applications from the short form notice. This is a first iteration of language to address that issue.

This code builds on best practices implemented by other industries and incorporates guidance from consumer advocates, app developers, and other entities across the mobile ecosystem. The transparency created by consistently displaying information about application practices as set forth in the code is intended to help consumers compare and contrast data practices of apps, with the goal of enhancing consumer trust in application information practices. This code is drafted to reflect the current state of application practices.

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**Comment:** For discussion if necessary. A suggested change here is: to help "consumers make informed decisions about the collection and use of their information." The suggestion came in late and the full drafting group did not have time to review this suggestion.

App developers should be aware that sector-specific laws and state-level requirements may apply to their notices. Nothing in this code is intended to replace or supersede app developers' notice obligations under, for example, the FTC's Children's Online Privacy Protection Act Rule. Likewise, in some circumstances, a consumer opt-out choice or affirmative consent may be required under a sectoral law or may be a best practice.

While this code of conduct addresses short form notice obligations, app developers should be aware that California's Online Privacy Protection Act and other privacy laws that apply to business sectors may require app developers to also post a long form privacy policy which may include how the app uses personal data. Long form privacy policies also constitute a generally accepted best practice.

App developers should consider carefully whether they can fulfill all elements of this Code of Conduct before they commit to follow it. ▼

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This code is intended to balance the objectives of transparency, brevity, and functionality.

- The code is designed to offer meaningful explanations of an app's data collection and third party data-sharing practices.
- Short form notices should be brief, succinct, and in context that a consumer will understand in order to help to enhance app transparency and understanding in the context of the app.
- App transparency standards should be available in a manner that does not interfere with or diminish the user experience.
- Readily implementable: Short notices should be easy for developers to implement in the context of an app.

- Consumers have a variety of perspectives regarding app data practices. Apps should provide transparency that allows consumers to understand the data practices of apps with which they engage.
- App developers are encouraged to provide consumers with access to the short notice prior to download or purchase of the app where practicable.
- Privacy and consumer advocates recognize some consumers' choice to share data with apps in exchange for a wide variety of tools, content, and entertainment.
- Some apps will evolve over time and offer fixes, enhancements, and changes to their original functionality. When apps' data policies evolve in material ways, the apps shall promptly update their disclosures to consumers. Apps will make the updated disclosure readily available to users and ensure it is presented prominently.
- App developers recognize that transparency is just one of the fair information practices, and that the app developer should also adhere to the other FIPs.

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- App developers who adhere to this code of conduct and provide short form notice as described in Section II, are engaging in a practice that is intended to enhance transparency of data practices.
- Some app developers may elect to offer short form notice in multiple languages.

## II. Short Form Notices

App developers may voluntarily elect to enhance transparency by adopting short form notices. Participating application developers and publishers that implement the Mobile App Code shall detail:

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- (i) data types as listed in Section II. A as defined below that consumers may or may not know is being collected;
- (ii) the fact that a description of the types of uses of such data can be found in the app's long form privacy policy;
- (iii) the sharing of user-specific data, if any, with third parties listed in section II. B as defined below; and
- (iv) the identity of the company providing the app.

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These practices shall be outlined in "short form notices" that shall convey the information described in subsections (A) and (B) below to app users in a consistent manner that is easy for consumers to read and understand.

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Participating apps should display this information in a single screen where possible. The following elements must be accompanied by the text, An icon may be used along with the text. App developers shall employ a mechanism that facilitates ready consumer access to the parentheticals explaining the (applicable) terms listed in subsections A and B (where the bolded term appears.)

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Apps shall not be required to disclose in the short form notice collection or disclosure of data that they promptly de-identify and (data they) take reasonable steps to ensure that it (the data element) cannot be re-associated with a specific individual. Apps shall be deemed to take such reasonable steps to the extent that they: (1) take reasonable measures to ensure that the data is de-identified; (2) publicly commit not to try to re-identify the data; and (3) contractually prohibit downstream recipients from trying to re-identify the data.

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### A. Data Collected

Apps shall inform consumers whether they collect any category of data that falls within any of the following:

- **Biometrics** (information about your body, including fingerprints, facial recognition, signatures and/or voice print.)
- **Browser History and Phone or Text Log** (A list of websites visited, or the calls or texts made or received.)
- **Contacts** (including list of contacts, social networking connections or their phone numbers, postal, email and text addresses.)
- **Financial Information** (Includes credit, bank and consumer-specific financial information such as transaction data.)
- **Health, Medical or Therapy Information** (including health claims and information used to measure health or wellness.)
- **Location (precise past or current location and history of where a user has gone,**
- **User Files** (files stored on the device that contain your content, such as calendar, photos, text, or video.)

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Apps shall not be required to disclose incidental collection of the above data elements if the data element is actively submitted by a user through an open field and the user is in no way encouraged to submit that data element.

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### B. Data Shared

Apps shall state whether they share data with any category of third-party entity that falls within any of the following:

- **Ad Networks** (Companies that display ads to you through apps.)
- **Carriers** (Companies that provide mobile connections.)
- **Consumer Data Resellers** (Companies that sell consumer information to other companies for multiple purposes including offering products and services that may interest you.)
- **Data Analytics Providers** (Companies that collect and analyze your data.)
- **Government Entities** (Any sharing with the government except where required or expressly permitted by law.)
- **Operating Systems and Platforms** (Software companies that power your device, app stores, and companies that provide common tools and information for apps about app consumers.)
- **Other Apps** (Other apps of companies that the consumer may not have a relationship with)
- **Social Networks** (Companies that connect individuals around common interests and facilitate sharing.)

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Apps shall not be required to disclose sharing with third party entities, where a contract between the app and the third party explicitly:

- (i) limits the uses of any consumer data provided by the app to the third party solely to provide a service to or on behalf of the app; and,

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Notwithstanding the disclosure requirement stated in this section, apps

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(ii) prohibits the sharing of the consumer data with subsequent third parties.

Companies may collect and use data for purposes that are integral to the app's operations. The most common of these activities as listed below in (a)-(g) are exempt from disclosure requirements in the short notice, and include those activities necessary to:

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**Comment:** This section articulating exemptions was derived nearly verbatim from the FTC's COPPA Rule.

- (a) maintain or analyze the functioning of the app;
- (b) perform network communications;
- (c) authenticate users;
- (d) serve contextual advertising on the device or online service or cap the frequency of advertising;
- (e) protect the security or integrity of the user, app, or online service;
- (f) ensure legal or regulatory compliance; or
- (g) fulfill a request of the user, so long as the information collected for the activities listed in paragraphs (a)-(g) is not used or disclosed to contact a specific individual, including through behavioral advertising, to amass a profile on a specific individual, or for any other purpose.

### III. Short Form Design Elements

Given the different screen sizes, form factors, User Interface ("UI") options and range of sensors available on devices, short form notice implementations may vary. To adhere to this code, app developers must ensure the following are implemented consistent with the design of the app:

- A. All applicable data elements as described in II.A, and all applicable entities as described in II.B are listed in text that may also include an icon or symbol that conveys the information; nothing in this code shall be construed to preclude an app developer from describing data elements or entities with more specificity.
- B. Apps shall differentiate between data that is collected and data that is not collected.
- C. Text and font shall be distinct so as to easily stand out from the page background.
- D. The short notice is readily available from the application. Nothing in this code shall be construed to require a click-through screen prior to installation or use of the application.
- E. Apps that materially change their data collection or data sharing practices in a way that results in expanded or unexpected collection or disclosure of data shall inform consumers and may be required to obtain consent under Section 5 of the FTC Act.

**IV. Linkage to Data Usage, Terms of Use and/or Long Form Privacy Policies**

In addition to implementing short form notices, participating app developers and publishers shall provide ready access for consumers to each participating app's data usage policy, terms of use, or long form privacy policy, as applicable, and should include explanations of the app's data retention policy, if any exists.

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