

CODE OF CONDUCT ON MOBILE APP TRANSPARENCY

I. ~~I.~~—Preamble: Background Regarding the Principles Guiding App Transparency Underlying the Code of Conduct

This is a voluntary ~~e~~Code of ~~e~~Conduct for mobile application (“app”) short notices developed through the Multi-~~s~~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’~~the data collection and sharing practices ~~of apps with which consumers choose to interact~~.

This ~~code builds on best practices implemented by other industries and Code of Conduct~~ incorporates guidance from ~~privacy, civil liberties, and~~ consumer advocates, app developers, ~~app publishers~~, 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. The short notices are intended to enhance~~ consumer trust in ~~application~~app information practices. ~~This code is drafted to reflect the current state of application practices without discouraging innovation in mobile app notice or interfering with or undermining the consumer’s experience.~~

~~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.~~
~~This preamble explains the goals of the Code of Conduct and provides some guidance to developers regarding implementation. However, it does not impose operational requirements beyond those set forth in Sections II, III, and IV. below.~~

~~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 Where practicable, 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 FIPPs.~~
- ~~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.

App developers should be aware that there are other Fair Information Practices (FIPs) beyond transparency; app developers are encouraged to adhere to the full set of FIPs.

This II. — Short Form Notices Code of Conduct addresses short form notice regarding collection and sharing of consumer information with third parties. App developers should be aware that California's Online Privacy Protection Act and other privacy laws may require app developers to also post a long form privacy policy. Long form consumer privacy policies constitute a generally accepted best practice.

Before committing to follow this Code of Conduct, app developers should review their data practices, consider platform requirements, if any, and consider carefully whether they can fulfill all operational requirements, which are set forth below in Sections II., III., and IV., as implementation may create legal responsibilities. Adopting these principles does not guarantee compliance with any specific state, federal, or international laws or suggested practices.

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 set forth:
~~Mobile App Code shall detail:~~

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

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

~~Participating apps should display this information in a single screen where possible.~~ The following elements must be ~~accompanied by the~~displayed in text. An icon may be used along with the text. App developers shall employ a mechanism that facilitates ready consumer access to the explanatory information ("parentheticals explaining"). ~~The parentheticals explain the (applicable) bolded terms listed below in subsections Sections II.A, and B (where the bolded term appears.). These parentheticals may be modified as described in Sections III.A.-F.~~

~~Apps~~App developers shall not be required to disclose in the short form notice collection or ~~disclosure~~sharing of data that ~~they is not identified or is~~ promptly de-identifyidentified and ~~(data they) take~~where reasonable steps are taken to ensure that ~~it (the data element)~~ cannot be re-associated with a specific individual. ~~Apps or device. App developers~~ shall be deemed to take such reasonable steps to the extent that they: ~~{1~~

- (a) take reasonable measures to ensure that the data is de-identified; ~~(2)~~ publicly
- (b) commit not to try to re-identify the data; and ~~(3)~~
- (c) contractually prohibit downstream recipients from trying to re-identify the data.

A. Data Collected

Apps

Each app shall inform consumers ~~whether they collect any category of data that falls within any~~ which of the following ~~data categories it collects~~:

- **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~~Info (includes credit, bank and consumer-specific financial information such as transaction data.)**
- **Health, Medical or Therapy ~~Information~~Info** (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.)

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~~not encouraged to submit that ~~specific~~ data element.

If an app as one of its functions permits the purchase of goods or services and does not otherwise passively collect financial information without advance consumer notice, the short form notice is not required to list collection of financial information unless the consumer chooses to make a purchase in which such information is collected or that collection represents a material change from the app's previous short form notice.

Data is not collected when it remains local to the device.

B. Data Shared

Apps

Each app shall state whether ~~they share~~it shares user-specific 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.)

~~Apps~~App developers shall not be required to disclose sharing with third party ~~entities~~service providers 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, (ii) prohibits the sharing of the consumer data with subsequent third parties.

~~(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.~~

User-specific data does not include aggregated information that does not include any of the user's personally identifying information, and would not allow that information to be inferred.

C. Exceptions to Short Form Notice

The most common ~~of these app collection and sharing~~ activities for operational purposes as listed below in (a)-(g) are exempt from ~~disclosure~~the short notice requirements in ~~the short notice, Sections II.A. and B.,~~ and include those activities necessary to:

- (a) maintain, improve 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, or 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.—(g) allow an app to be made available to the user on the user’s device.~~

Comment [A1]: Platforms like Apple iOS and Google Android require apps to provide them with certain information in order to be available in their app stores and to be downloaded to devices.

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~~Code of Conduct, 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 be accompanied by or include an icon or symbol that conveys or attracts attention to the information; nothing in this code shall be construed to preclude an app developer from describing data elements or entities with more specificity.~~
- ~~A. Apps shall differentiate between data that is collected and data that is not collected.~~
- ~~B. App developers may comply with this Code of Conduct by displaying more specific descriptions than that set forth in the explanatory text in sections II.A and II.B. “parentheticals.” The more specific descriptions can be used instead of the text suggested, or by displaying more specific information in an additional field.~~
- ~~C. App developers may list below the categories in Sections II.A. and II.B. that do apply in smaller text the categories in II.A. and II.B. that do not apply.~~
- ~~D. Where practicable, participating app developers should display the applicable bolded text in Sections II.A. and II.B. in a single screen.~~
- ~~E. The short form notice shall enable consumers ready access to explanatory information as set for in this Code of Conduct’s “parentheticals” which explain the applicable terms set forth in Sections II.A. and II.B.~~

F. Text and font shall be distinct so as to easily stand out from the page background.

G. The short notice ~~is~~shall be readily available from the application.
~~Nothing in this code shall be construed to~~

H. This Code of Conduct does not require ~~a click-through~~
~~screen~~presentation of a short form notice prior to installation or use of the application.

Appsl. App developers 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~~notify consumers and may be required to obtain consent under Section 5 of the ~~FTCFederal Trade Commission~~ 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~~app's data usage policy, terms of use, or long form privacy policy, as applicable, and should include explanations of the ~~app's~~app's data retention policy, if any exists.