

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 enhance transparency about apps' data collection and sharing practices. App developers who voluntarily adhere to this code of conduct as set forth below...

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. As app technology and practices change, transparency practices should evolve to reflect such changes.

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 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 should make a good faith effort to provide consumers with access to the short notice prior to download or purchase of the app.
- ~~Some consumers may choose 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.

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Comment [d1]: This is the overriding goal that everyone needs to keep in mind

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Comment [d2]: I think the second to last bullet in the preamble should be set forth in the first paragraph here, but it's incomplete because it should ultimately convey that by adhering to this code app developers are afforded Safe Harbor protection by the DOC, FTC or whomever.

Comment [PV3]: Transparency and consistency are two different things. Consumers benefit from standardization because it enhances usefulness and comprehension. There is no evidence that consumers comparison shop using privacy policies.

Comment [d4]: Will this code be updated to reflect such changes? Who makes the determination as to when an update is necessary and what will that process be?

Comment [PV5]: This means the code has to be written in such a way that does not require updates as technology change, laws are enacted and new consumer concerns arise.

Comment [PV6]: What does "in context" mean is this context?

Comment [PV7]: Changes to a privacy policy are only relevant to those users who have previously downloaded the app. Therefore, notice of changes should focus on notifying active users, where possible, either when they download a new version or open a previously downloaded version or utilizing contact information if previously collected.

Comment [PV8]: Should be spelled out for developers (Fair Information Practice Principles) and linked to a resource like this one: <http://www.ftc.gov/reports/privacy3/fairinfo.shtm> What about applicable laws?

- ~~□ 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.~~

Comment [d9]: Doesn't belong in the pre-amble. Moved below.

~~H.II. Short Form Notices~~

~~Application developers may voluntarily elect to enhance transparency by adopting short form notices.~~ Participating application developers and publishers that

Comment [d10]: Stated in the preamble

implement the Mobile App Code shall detail:

- (i) ~~All data types such as those listed in Section II. (A) as defined below that consumers may or may not know is~~are 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-or device-specific data, if any, with third parties ~~such as those listed in section II. B as defined below;~~ and
- (iv) the identity of the company ~~publishing~~providing the app.

Comment [PV11]: This wording allows for more flexibility to adapt to changes in the market, technology, laws and business practices.

Comment [PV12]: Same comment as PV11

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

~~Participating apps should may display this information in a single screen where possible or in a layered format.~~ The following elements ~~must may~~ be communicated using text, accompanied by the text that may be accompanied an icons, or both.

Comment [PV13]: We believe layers may help usability.

A. Data Collected

Apps shall inform consumers when they collect the types of data

~~as specifically~~ listed below:

- **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-

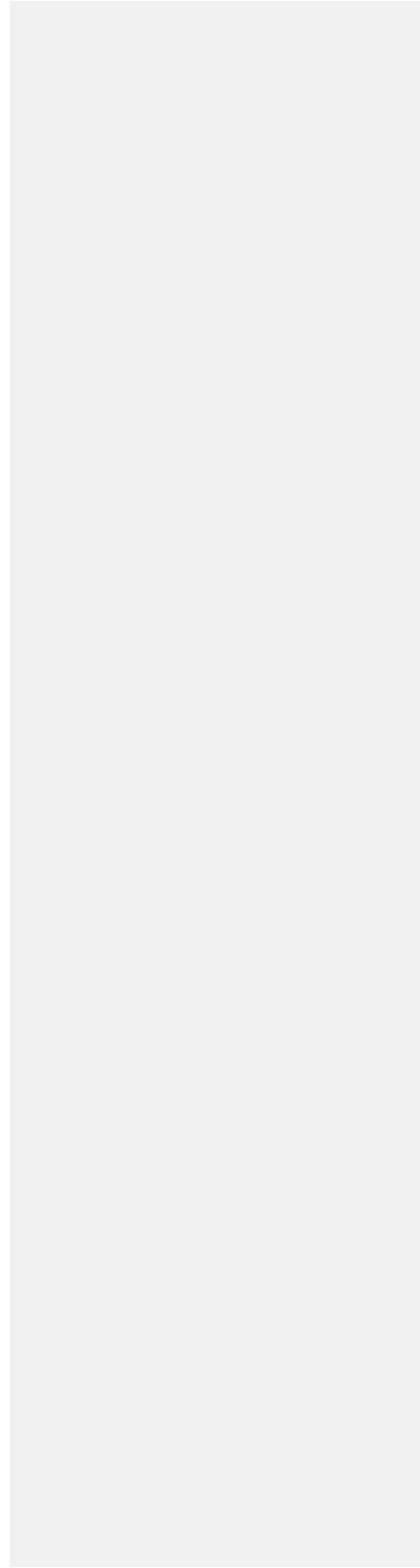
Comment [PV14]: See note below. We believe User Information should also be listed (first/last name, DOB, address)?

Comment [PV15]: This should be shortened. It's 37 characters long.

specific financial information such as transaction data.)

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- **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, pictures, text, and video.)

Comment [PV16]: This should be shortened. It's 38 characters long.

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~~Apps shall employ a mechanism that facilitates ready consumer access to the parentheticals listed in this subsection [where the bolded term appears].~~

App developers shall employ a mechanism that facilitates ready consumer access to the parentheticals listed in this subsection or list the specific types of data actually collected.

Comment [PV17]: Developers should have the flexibility of providing the parenthetical definitions or list the specific data that is collected. We think developers should disclose the information that is most useful upfront in the Short Form Notice and not utilize generic definitions wherever possible. The terms used for data type should be tested to ensure consumer comprehension and more specific information may be listed by developers in the Short Form Notice in addition to or in place of data type and the parentheticals.

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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 the data element.

If app developers acquire data that they promptly de-identify and use only in a manner that is not reasonably linkable to a consumer, computer or device, this usage does not require disclosure in the short form notice. For this purpose, data is not reasonably linkable to the extent that a company: (1) takes reasonable measures to ensure that the data is de-identified; (2) publicly commits ~~not to try~~ ~~to not~~ re-identify the data; and (3) contractually prohibits downstream recipients from trying to re-identify the data.

Comment [d18]: What is "incidental collection"? If registration for an app is not required to use the app but a user chooses to enter their email address, name, etc. but is no way encouraged to do so, that is collection of data that the app developer will use and is, in no way, "incidental." And how does a developer define "encouragement?"
BTW -- consumers (esp parents) disagree with this policy; they want to know up front if an app is going to request or collect any sort of user information. Also, COPPA may apply in cases where such information is collected. As a result, we believe User Information should be included in Data Collected in Section A.

B. Data Shared

Apps shall state whether they share data with any entities ~~such as those on~~from the following list:

- **Ad Networks** (Companies that display ads to you through apps.)
- **Carriers** (Companies that provide mobile connections.)
- **Consumer Data Resellers** (Companies that buy and/or 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 shall employ a mechanism that facilitates ready consumer access to the parentheticals listed in this subsection [where the bolded term appears].~~

App developers shall employ a mechanism that facilitates ready consumer access to

Comment [PV19]: See PV17 above

the parentheticals listed in this subsection or list the specific entities with which data is actually shared.

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

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- (i) limits the uses of any consumer data provided by the app to the third party solely to services rendered to the app; and,
- (ii) prohibits the sharing of the consumer data with subsequent third parties.

Comment [d20]: To not include a provision which requires app developers to disclose HOW the info they collect is used does not fulfill the goal of transparency.

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.

Comment [d21]: What does “range of sensors” mean? How does it effect notice?

To adhere to this code, app developers must ensure the following are implemented consistent with in the design of the app:

- A. All data elements such as those described in II.A, and all entities such as those described in II.B are listed in text that may also include or be replaced with 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~~ The short form notice shall may 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 form 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, although making the notice available also prior to download of the app is highly recommended wherever possible.
- E. Apps that materially change their data collection or data sharing practices shall promptly provide an updated short form notice and inform consumers directly of such changes where possible.

Comment [PV22]: We strongly oppose requiring developers to disclose information that is NOT collected.

Comment [d23]: Mobile app transparency should not start within the app; it should start at the storefront, prior to download. This code should require app developers to make their short form notice readily available at the store front level wherever possible. The FTC has repeatedly asked for this in their prior reports.

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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 where legally recommended or required. These documents should include explanations of:

- i. how consumers may request deletion of their data collected by the app, if such deletion is available;
- ii. identification of those business affiliates if any, with whomehere the data elements identified in this code are being shared;

and,
iii. any data retention policies, if any exist.

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Notwithstanding the disclosure requirement stated in IV.ii., app developers shall not be required to disclose sharing of information with business affiliates where a contract between the app and the business affiliate explicitly:

- i. limits the uses of any consumer data provided by the app to the business affiliate solely to services rendered to the app; and,
- ii. prohibits the sharing of the consumer data with subsequent third parties.

Comment [PV24]: This will be interpreted broadly by developers and, as a result, many of the entities listed in Section B above will be considered "exempt". This should be redrafted or omitted.

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