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.

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 enhanc~~ei~~ng 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, where feasible.
- ☐ ~~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.

1

Comment [PV1]: 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 [d2]: 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 [PV3]: 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 [PV4]: What does "in context" mean? Does it mean in-app?

Comment [PV5]: Redundant.

Comment [PV6]: Unnecessary.

Comment [PV7]: Doesn't belong. Irrelevant to this code.

Comment [PV8]: 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, where feasible.

Comment [PV9]: 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 reference to a few 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~~.

~~II.~~ II.   Short Form Notices

~~Application 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:

(i)   <u>All</u> data types <u>such</u> as <u>those</u> listed in Section II~~.~~ (A) ~~as defined below that consumers may or may not know is~~<u>are</u> being collected;

(ii)   the fact that a description of the types of uses of such data can be found in the app's <u>long form</u> privacy policy;

(iii)   the sharing of user-or device-specific data, if any, with third parties <u>such as those</u> listed in section II. B~~as defined below~~; and

(iv)   the identity of the company p<u>ublishing</u>~~roviding~~ the app.

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~~ <u>may</u> display this information in a single screen ~~where possible~~<u>or in a layered format</u>. The following elements ~~must~~<u>may</u> be <u>communicated using text,</u> ~~accompanied by the text that may be accompanied an~~ icon<u>s, or both</u>.

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 [PV10]: Redundant, unless this refers to some sort of Safe Harbor if the developer complies.

Comment [d11]: Doesn't belong in the pre-amble.   Moved below.

Comment [d12]: Redundant. Stated in the preamble

Comment [PV13]: This wording allows for more flexibility to adapt to changes in the market, technology, laws and business practices.

Comment [PV14]: Same comment as PV13

Comment [PV15]: We believe layers may help usability.

Comment [PV16]: See note below. We believe User Information should also be listed (first/last name, DOB, address)?

Comment [PV17]: This should be shortened. It's 37 characters long.

specific financial information such as transaction data.)

2

Mobile App Code, Short Form Notice

☐ **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.)

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.

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 tonot re-identify the data; and (3) contractually prohibits downstream recipients from trying to re-identify the data.

B. Data Shared

Apps shall state whether they share data with any entities such as those onfrom 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.)

App developers shall employ a mechanism that facilitates ready consumer access to the parentheticals listed in this subsection or list the specific entities with which data

---

Comment [PV18]: This should be shortened. It's 38 characters long.

Comment [PV19]: 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.

Comment [PV20]: 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." 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 – required or not. 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.

Comment [PV21]: And how does a developer define "encouragement?"

Comment [PV22]: See PV13 above

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:

3

Mobile App Code, Short Form Notice

(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 [d24]:** 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. To adhere to this code, app developers must ensure the following are implemented ~~consistent~~ with~~in~~ ~~the design of~~ the app:

> **Comment [d25]:** What does "range of sensors" mean? How does it effect notice?

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.

> **Comment [PV26]:** We strongly oppose requiring developers to disclose information 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.

> **Comment [d27]:** 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 and Cali AG have repeatedly asked for this in their prior reports.
> **Formatted:** Not Highlight

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 feasible.

> **Comment [PV28]:** See PV8

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:

> **Comment [PV29]:** May not be "required" – but highly recommended to provide greater transparency to consumers and protect developers

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 whom~~here~~ the data elements identified in this code are being shared;

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

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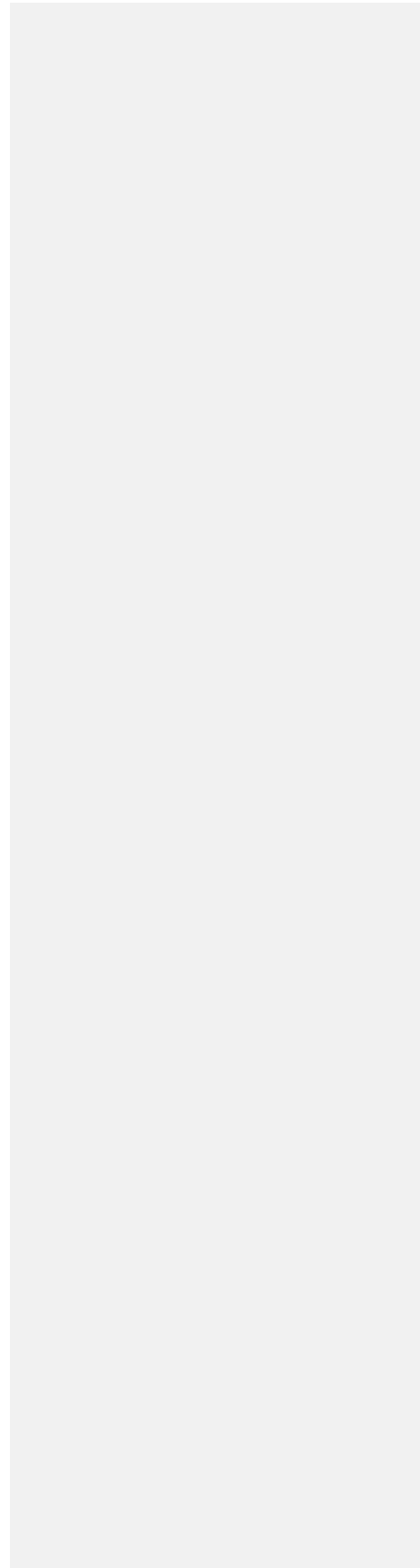
Notwithstanding the disclosure requirement stated in IV.ii., app developers shall not be required to disclose sharing of information with business affiliates where a contract between the app and the business affiliate explicitly:

> 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 [PV30]: 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.

5

Mobile App Code, Short Form Notice