

Comments from:
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We remain optimistic that participants can reach agreement on a reasonable code of conduct for disclosing the data collection and sharing practices of mobile apps that can be implemented by app developers and publishers. Below are our comments and concerns on the current proposal from the App Developers Alliance, ACLU, Consumer Action, Future of Privacy Forum, and World Privacy Forum.

In general, the Online Publishers Association is concerned about the ramifications of placing responsibility on publishers for disclosing what data is being collected by a third party on an app. Often, publishers will limit via contract a third party's ability to collect data about users of the app. However, app developers and publishers are not in a position to verify what data is actually being collected. Indeed, many of our members' privacy policies currently outline the kinds of third parties that are operating on the website, but the privacy policy does not list the kind of data that is being collected. Instead, many privacy policies provide a link to a resource (i.e. www.aboutads.info) where consumers can learn more about third party data collection and exercise choice over that data collection.

Specifically regarding the proposal, we have the following concerns:

- Any Short Form Notice should be easily discoverable in the app store and/or within the app's settings. We oppose any requirement that a Short Form Notice be required to be accepted by users before download or first use. In addition, as we note below, the design and placement of a Short Form Notice would be greatly improved with a better understanding of how a notice could be displayed within the app store, where it can be displayed and whether any additional functionality, such as a clickable link, could be incorporated into the notice.
- We are concerned about having to list all the potential data elements and then check only those that apply. As we have noted, many of our members may not collect any of the data elements and thus would leave them all unchecked. This could confuse users by creating a perception that all the data elements are collected.
- We are concerned about how the Short Form Notice would work with efforts by app developers and publishers to gain user consent at the time of data collection. "Just in time" notices are extremely effective in educating consumers and providing for meaningful choice. For example, an app may not require location data to operate. But, if a user attempts to use a specific function of the app that relies on location data, the app will then ask for consent to collect and use location data. In this scenario, a publisher would not want to declare that an app collects location data in the Short Form Notice because it does not know whether the user will provide consent. In addition, the Short Form Notice will not provide any context as to why the app would collect and use location data.

- We believe it is important for companies to have the flexibility to employ a mix of text and icons in any Short Form Notice.
- The requirement to provide the Short Form Notice in multiple languages is vague and could create a significant operational burden. For instance, if an app attracts a worldwide audience, when would multiple languages be required and what threshold of international usage would trigger such a requirement?
- Under Section II.B, we would oppose having to disclose whether data is shared with an “App Publisher or Other Apps.” For the same reasons “Affiliated Businesses” was struck from this list, we are concerned that first party data sharing should not be placed on the same level with third party data sharing.
- Finally, we would appreciate hearing the views of the major app stores. Specifically, we would like to better understand how and where a Short Form Notice could be shown and whether the notice could include an active, clickable link to more information. It is important to understand the limitations of the app stores before the group can craft a workable Short Form Notice.

I hope these comments are useful in helping the group reach agreement on a workable code of conduct that can be implemented by app developers and publishers. We look forward to Thursday’s meeting and to continuing to work with you and our fellow participants.