

NTIA Mobile Application Transparency Code of Conduct

Discussion Draft

Preamble

This Mobile Application Transparency Code of Conduct is intended to help consumers understand the collection and use of Personally Identifiable Information and Device Identifying Information when they use mobile applications. Transparency is only one of the Fair Information Practice Principles (FIPPs) which are widely recognized in various forms, including the OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data and the Administration's "Privacy Bill of Rights."

I. Definitions

- A. "App Market Provider" means an entity that is in the business of operating, on its own behalf, an online location that allows consumers to download and install Mobile Applications provided by other entities.
- B. "Device Identifying Data" means data that specifically identifies a mobile device and is maintained in an accessible form. An Internet Protocol address is not Device Identifying Data.
- C. "Mobile Application" means a program with which the user interacts directly that runs in the operating system of a Mobile Device that initiates the transmission of data over a wireless connection. A Mobile Application does not include a Web browser or Web site.
- D. "Mobile Application Provider" means the entity that owns the Mobile Application.
- E. "Mobile Device" means a smartphone or tablet computer.
- F. "Personally Identifiable Data" means information about a consumer that is collected online from that individual, maintained in an accessible form, and used to identify a specific individual consumer, including name, address, telephone number and email address. A "consumer" is any individual acting in a personal, family, or household capacity.
- G. "Third Party" means any non-affiliated entity with which the Mobile Application Provider shares Personally Identifiable Data, Device Identifying Data, or precise location data for the Third Party's own purposes.

II. Mobile Application Providers

- A. ***In General:*** A Mobile Application Provider that collects Personally Identifiable Data or Device Identifying Data from consumers through a Mobile Application should give notice to consumers of data practices associated with the Mobile Application, including both Short Notice and Notice as set forth in this section. Notice provided under Section II.B may be incorporated into a privacy policy for multiple products or services.

B. **Notice:** A Mobile Application Provider should explain its practices with respect to Personally Identifiable Data and Device Identifying Data through a Notice that includes the following information:

1. The name and contact information of the Mobile Application Provider
2. The types of Personally Identifiable Data and Device Identifying Data that it collects from the mobile device
3. Whether it collects precise location data through the Mobile Application
4. The purpose and use for which it collects such data
5. Whether such data is shared with Third Party entities and if so, what types of entities and the purposes for which those entities use such data
6. What choices, if any, consumers have with respect to the Mobile Application Provider's data practices, including choices to limit data collection, use or sharing, and how to exercise such choices
7. If the Mobile Application Provider maintains a process for a consumer who uses the Mobile Application to review and request changes to or delete Personally Identifiable Data, provide a description of that process
8. Whether the Mobile Application Provider employs security practices to protect from unauthorized acquisition any Personally Identifiable Data that it collects
9. A description of how the Mobile Application Provider handles material changes to its notice
10. The effective date of the notice

C. **Short Notice:** A Mobile Application Provider should provide consumers with access to a Short Notice that in an abbreviated format provides consumers with information regarding the data collection and use practices of the Mobile Application. The adoption of any specific format for providing Short Notice should be solely at the discretion of the Mobile Application Providers. A Mobile Application Provider should at a minimum include the following information in its Short Notice to consumers:

1. Whether precise location data is collected through the Mobile Application
2. Access to or a description of how to access the Mobile Application Provider's Notice provided under this section

D. **Availability of Transparency:** A Mobile Application Provider should make the Short Notice easily accessible for consumers from the Mobile Application through an App Market Provider mechanism described in III.A. A Mobile Application Provider should provide Notice to consumers:

1. On its Web site, if it has one;
2. On a Web page linked from the Mobile Application;
3. During the download process or when the Mobile Application is opened for the first time; or
4. Through any other reasonably accessible means that the Mobile Application Provider determines makes such Notice available for consumers of the Mobile Application.

III. App Market Providers

A. **Methods of Providing Notice:** An App Market Provider should offer consistent methods for Mobile Application Providers to provide reasonable access to Short Notice as set forth in Section II that includes one of the following in the submission process for new or updated Mobile Applications:

1. An optional data field for a hyperlink that allows consumers to access the Mobile Application's Short Notice or
2. An optional data field containing the Mobile Application's Short Notice.

IV. Relation to Existing Laws and Self-Regulation

- A. This Code of Conduct does not apply to the extent that an entity's privacy policies on collection and use of data pertaining to consumers through Mobile Applications are regulated by federal or state privacy laws including the Gramm-Leach Bliley Act, the CPNI provision of the Communication Act, the Health Insurance Portability and Accountability Act, the Drivers' Privacy Protection Act, or the Fair Credit Reporting Act.
- B. This Code of Conduct does not address entities subject to the self-regulatory principles set forth by the Digital Advertising Alliance.

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