

CMA Guide:

Transparency for Consumers

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This guidance document does not constitute legal advice. Those with legal questions specific to their organizations should consult their own legal counsel. If you would like more information on the legislation or these guidelines, please [contact us](#).

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CMA Transparency for Consumers Guide

A recognized leader in industry self-regulation, the Canadian Marketing Association has a Code of Ethics and Standards of Practice, and series of guides, that establish best practices for marketers in Canada and assist members with understanding and navigating regulatory frameworks.

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A. PURPOSE AND CONTEXT

The CMA is the recognized and longstanding leader in developing self-regulatory guidance to help Canadian marketers maintain high standards of professional conduct. We strive to ensure an environment where consumers are protected and businesses can thrive.

This guide sets out a Transparency Framework that specifies the information consumers want to know about how their personal information is collected, used and shared, and proposes how to communicate this to consumers in a more user-friendly, easily digestible manner. CMA members can use this information to tailor their privacy policy and practices to suit their sector, business model, consumers' preferences and products.

Until now, an organization's privacy policy or notice is the most common method for informing consumers about what information is being collected, for what purposes, and with whom it is being shared. Privacy notices are oftentimes long, complex, and legalistic. While many companies have made significant changes to their privacy notices in recent years to be more user-friendly, easy to understand, and layered to meet varying consumer needs, many others have not or the changes have not gone far enough.

More disclosure does not necessarily translate into better information. Most consumers do not take the time to review and absorb lengthy, complex privacy policies. Adding additional text to such statements will not improve consumer understanding.

The concepts and practices contained in this Guide reflect consumers' perspectives identified in research released by the CMA in 2018 and advice from leading Canadian Chief Privacy Officers.

It is sometimes said that privacy is a competitive differentiator. Tailoring your communications with your customers to reflect the best practices outlined in this guide – practices that are driven by consumer perspectives – will differentiate you from some of your competitors. Communicating with consumers in a more meaningful way about your privacy practices will help them be better informed and give them more choice and control, which, in turn, will help you build trust and loyalty with current and future customers.

The remainder of this Guide is organized in the following manner:

- **Section B** briefly outlines how the data economy has shifted consumer expectations and companies' ability to respond, and why consent is a cornerstone of effective privacy policies.
- **Section C** defines transparency and describes what data processing includes.
- **Section D** describes the CMA's new transparency framework and its three pillars: information should be layered, tailored, and we all share responsibility for achieving positive outcomes.
- **Section E** outlines the types of information that consumers want to know about your organization's privacy practices and the use of their personal information.
- **Section F** describes the concept of a "privacy label".
- **Section G** lists practices for companies to consider.



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There are also two appendices: One outlines the CMA's Code of Ethics and the other is a list of relevant resources.

For more background and context on privacy issues, please visit [our website](#) and sign up for MyCMA.

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B. THE ROLE OF TRANSPARENCY IN CONSUMER CONSENT

The Data Economy is a Game-Changer

The data economy provides significant benefits to consumers. Technological advances give companies the agility to offer relevant, useful products and services, and targeted special offers, to consumers who want them. Consumers increasingly expect organizations to provide and continually enhance personalized services and to draw their attention to new products that will benefit them. But this can only be accomplished through data-driven decision-making.

Many online services – services that consumers want – are supported, at least to some extent, by advertising revenue that relies on interest-based advertising and data collection techniques.

For all these reasons, the ability of organizations to collect and use personal information is key to providing value to consumers, achieving business success and ensuring Canadian competitiveness.

Advances in technology have created some challenges around obtaining meaningful consent, including the wide use of devices with smaller screens, the length and complexity of today's privacy policies, and the speed with which consumers interact with content and technology.

However, technology has also solved many problems and has led to conveniences that consumers have embraced. Emerging technologies (e.g., better encryption, blockchain) are significantly improving our capacity to protect personal information.

Privacy and data protection are critical to ensuring continued consumer trust in a digital world; just as innovation and competition are critical to maintaining a healthy business environment. Neither should come at the expense of the other.

Knowledge and Consent are the Cornerstones of Canadian Privacy Laws

Canada's privacy law – the Personal Information Protection and Electronic Documents Act (PIPEDA) – specifies that consumers' consent regarding the use of their personal information is valid only if it is reasonable to expect that an individual "would understand the nature, purpose and consequences of the collection, use or disclosure of the personal information to which they are consenting."

This places the onus on organizations to ensure they have effectively communicated how personal information is collected, used and disclosed.

PIPEDA is built on a sound consent framework and is principles-based, which provides the flexibility to accommodate new technologies and evolving norms, such as enhanced transparency.

C. WHAT DOES TRANSPARENCY FOR CONSUMERS ENTAIL?

Transparency allows consumers to be better informed of the existence and purpose of any processing activity involving their personal information and to better exercise their choice in the processing of their data.

Processing activities could include collecting, organizing, storing, adapting, sharing, transmitting and destroying data.

Personal data may include name, contact information, identifying numbers, financial and health information, key demographics (such as birth date), IP addresses and consumer preferences, alone or in combination.

Privacy notices, terms and conditions are necessary to comply with privacy law, but many consumers do not derive enough understanding from this information about how their personal information is being processed or managed by an organization.

Transparency helps to build trust with consumers by enabling them to make informed choices about their personal information. Transparency plays a key role in ensuring that an organization is accountable and obtains meaningful consent from consumers.

D. TRANSPARENCY FRAMEWORK

Being transparent and clear enhances the customer experience, leading to more trust and customer loyalty in an increasingly digital world. It improves consumer understanding about the benefits and value of data use, greater organizational accountability and available choices.

The CMA Transparency Framework is built on three pillars:

1. **Layered:** Information is layered so that consumers can choose the level of detail that suits them, when it suits them; and they receive information in smaller amounts, as it is needed. This means using a range of information, from simple, brief statements that can easily be read on a small screen, such as a “privacy label” (see Section F).
2. **Tailored:** Information is tailored to the medium and the audience so that it is user-friendly and user-appropriate. Conspicuously placing “chunk-able” information in a variety of media, as described in Section G, will increase transparency and raise awareness.
3. **Shared:** The approach reflects the shared roles of individuals, organizations and regulators. Research tells us that many Canadians see data security as a shared responsibility of individuals, government and companies.

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TRANSPARENCY FRAMEWORK

Information is <u>layered</u>	Information is <u>tailored</u> to medium and audience	Responsibility is <u>shared</u> among individuals, organizations and government
<ul style="list-style-type: none"> ✓ Corporate commitment, public disclosure. ✓ Standard detailed privacy policy; terms and conditions. ✓ FAQs for those who want more detail. ✓ Privacy label, icons or bubbles for those who want less detail. ✓ Just-in-time notices that focus on what matters, is different or might surprise. 	<ul style="list-style-type: none"> ✓ Privacy statements are suitable for the medium (e.g., desktop, mobile, call center) in which they are being provided. ✓ Appropriate accommodations are made for vulnerable people. 	<ul style="list-style-type: none"> ✓ Business must do the heavy lifting by sharing clear, concise information so that consumers can rely on the information they are receiving. ✓ Individuals are responsible for the actions they take to receive goods and services based on clear and transparent privacy policies. ✓ Regulators and government have a role in educating all parties and in stopping nefarious behaviours without interfering in regular commerce activities.
<p>Transparency enhances the customer experience by demystifying data use and providing the types of information that a “reasonable person” would want to know.</p>		

E. WHAT CONSUMERS WANT TO KNOW

Research indicates that consumers want to know the following types of information about how their personal information is being processed. As you tailor your information to different categories of consumers and media, include this type of information as much as possible and appropriate, in the context of your sector and target audiences.

- 1. Is any of my personal information used for unusual purposes, or for purposes that would not be obvious to me?**
 - Address how your organization manages cookies, the content of emails or texts, sensitive personal information, location data, etc.
- 2. Will you share my information with or sell it to third parties?**
 - Indicate if the sharing or selling is for the third party’s own use or part of your business operations.
 - Explain how you are monetizing data, e.g., by selling insights from data to third parties.
- 3. Do you collect personal information about me from public sources?**
 - Indicate the types of sources, e.g. social media, and whether they are collected directly or through a third party.

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- Explain the relevance of the information to your business and the relationship with your customers.
4. **Do you collect and use aggregated data from third party sources to make decisions that impact or target me?**
 - Identify third party sources of data (e.g., Stats Canada) and how the data is used (e.g., to create segments to better personalize offers).
 5. **Do you use or engage in data analytics or big data activities?**
 - Explain at a high level how data analytics and big data activities are conducted and their impact on the provision of your products and services.
 - Outline your use of de-identified or aggregate data.
 6. **How long do you keep certain types of personal information?**
 - Describe specific data retention practices related to consumers' personal information (e.g. location data, declined applications, etc.).
 7. **How do you keep my personal information secure?**
 - Consider what level of information you can share with consumers (e.g. use of de-identification, end-to-end encryption, background checks, compliance with ISO standards) without creating security risks.
 8. **What choices do I have?**
 - Consider what choices consumers have when it comes to their personal information and how best to bring those choices to their attention (e.g. marketing, managing customer preferences, sharing or selling of certain data, collection from third party sources, etc.)

F. PRIVACY LABEL

One layer of your transparency framework can take the form of a short transparency notice or “privacy label”. It should be short, clear and simple to understand. It can also have a strong visual element and should be easily accessible to consumers. For example:

How we use your personal information

For details about the type of information we collect about you, what we do with it and who we might share it with, click on the items below.

- Using online or digital tools to collect information about you
- Sharing information about you with other organizations
- Collecting information about you from public sources
- Obtaining Information about you from third-party data aggregators
- Using your information for data analytics and “Big Data”
- How long we keep information about you
- How we keep your information secure
- Your choices about the information we collect about you

G. PRACTICES TO IMPROVE TRANSPARENCY

Companies are encouraged to adopt any of the following techniques that would be appropriate for their sector, product or service type and audience. It is often most effective to provide privacy information to consumers using a combination of different techniques.

- Ensure links to web-based privacy notices are prominently visible on each page of the website.
- Provide layered transparency notices alongside your privacy notice, as a separate document, section or webpage.
- Make the notice available through a hyperlink in commercial email communications with individuals. For example, the link could be included in the email signature alongside the unsubscribe mechanism required under Canada's Anti-Spam Legislation.
- Transparency notices can be communicated and made available to consumers using "just-in-time" pop-ups or push notices. A "just-in-time" notice will provide specific privacy information when it is most relevant to the consumer — for example, during an online purchase a pop-up next to a field requesting the purchaser's email address might explain that the information is only being collected concerning contact related to the purchase. Alternatives include "pull" notices such as permission management interfaces and "learn more" tutorial options.

When it comes to the collection of personal information via apps, transparency requirements should be met in the online store prior to download, and easily found after installation.

APPENDICES

APPENDIX 1: THE CMA CODE OF ETHICS AND STANDARDS OF PRACTICE

CMA's [Code of Ethics and Standards of Practice](#) is the foundation of the marketing community's self-regulation. Unlike many other Codes that are only guidelines, CMA's Code is compulsory for members and as such is a comprehensive regulatory framework governing members' conduct.

Recognized as a benchmark for effective self-regulation, the CMA Code of Ethics has evolved over the years to become the best practices document for Canada's marketing community. Governments and regulatory bodies often refer to the document when enacting legislation and include key provisions of our Code in those statutes and regulations. The media also often reference the CMA Code as an example of best practices for business.

APPENDIX 2: KEY RESOURCES

CMA Resources

- CMA Data Privacy Study by Environics Research January 2018: [Attitudes Towards Data Privacy and Transparency - What the Canadian Consumer Really Thinks](#)
- [CMA Code of Ethics and Standards of Practice](#)
- [CMA Guidelines on Marketing to Children and Teenagers](#)

Other Industry Resources

- IAPP: [Top 10 Operational Responses to the GDPR – Part 6: Transparency and Privacy Notices](#)
- David Young LLP: [OPC's New Consent Guidelines Top Out an Eventful "Privacy Spring"](#)
- Centre for Informational Policy Leadership – [Recommendations for Implementing Transparency, Consent and Legitimate Interest under the GDPR](#)

Resources from the Regulators

- Office of the Privacy Commissioner – [Guidelines for Obtaining Meaningful Consent](#)
- Office of the Privacy Commissioner – [Privacy Toolkit](#)
- U.K. Information Commissioner's Office - [Privacy Notices, Transparency and Control](#)

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CMA would like to acknowledge and thank members of the [Privacy and Data Advisory Committee](#) for their help in creating this Guide.

This Guide is current as of January 2019.

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