ANCR TPI Conformity & CoMPLIANCE ASSESSMENT Scheme 1 v0.7

*Transparency Performance Indicators are specified as a standard measure of the operational performance of presented PII Controller security and privacy information*

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ANCR Specification v0.7 ANCR TPI Conformity & Compliance Assessment Scheme 1, Part 1 & 2

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Abstract

In context of processing personally identifiable information a PII Principal is not able to see who is processing there data, or notified when it is disclosed they are not able to trust the use of digital identity technologies.

* At this time there is little transparency over the required digital security and privacy elements online.
* Transparency varies from service to service and as a result it is impossible for people to see and trust how they are being identified as well as what is happening with their own data.
* Even so, the requirement to identify the legal entity and the accountable person to the PII Principal is a universal requirement for all data processing activities unless explicitly derogated by authoritative law or policy in a specific context.

If the PII Principal is not able to see how PII (Personally Identifiable Information) is shared, disclosed or managed it is not possible to make the choice to trust the service processing PII.

For people, secure by default requires assurance that data processing is operationally transparent and also consent by default. To create and scale trust in digital contexts a Digital Transparency Code of Conduct is introduced to simplify and clarify the use of CoE 108+ Chapter 1 Transparency Modalities, which is mirrored in the GDPR Article 12, ‘Transparent information, communication and modalities for the exercise of the rights of the data subject’

Scheme Applicability

1. All data processing must be transparent, unless required by legal obligation to not be. In such an instance, the processing must be transparent to the appropriate regulatory authority, according to the context of processing.
2. This applies to all services and every stakeholder, PII Controller, PII Processor, PII Principal’s, the PII Co-Regulating Authority and delegates.
3. All processing with consent requires a record of the privacy notice and privacy policy link, which in this document is referred to as a Notice Receipt, also known as the ANCR record of consent, referred to as a consent record in ISO/IEC 27560 Consent Record information structure, but more generally as Record of Processing Activity (RoPA) CoE 108+ Art 31, and the GDPR Art 30. In which the consent record is a record of consented data processing or surveillance activity,
4. A notice receipt can be created by any stakeholder to identify a PII Controller
5. An anchored notice and consent receipt can be used as a record of consent to access data subjects rights for example, to test and asses the operational performance of PII Controllers digital privacy in digital contexts.

in Part 1 of the scheme introduced, 4 indicators measure and rate the conformance of transparency. In Part 2 of the scheme (in the appendix) a transparency information request is sent to the controller to a) test the controller information and b) measure how compliant the performance of digital transparency is, not only legal, but according to the trust and privacy expectations of the PII Principal.

Introduction

Transparency Performance Indicator’s (TPI’s) are introduced here as the object of conformity, captured to capture the presentation of PII Controller credential information, to determine the operational capacity of the information in conformance Conv 108+ and personal expectations.

The TPI are used to create and ANCR (Anchored Notice and Consent Receipt) which is a record that is presentable as a ‘proof of notice’ claim, the object for both conformity, and compliance assessments, which are presented in this scheme.

TPI scheme, to test the performance of digital transparency with a privacy request, tests how dynamic the performance of transparency and consent is for data subject rights, independently of the service provider, relative to context.

The 4 TPI’s presented here pinpoint 4 metrics that can be used to measure the conformance of transparency and the integrity of consent in a data capture context.

These TPI’s are used to assess the operational capacity of *required* PII Controller Identity and Contact presentation. Measuring the performance of the publicly required digital service information. Checking digital components of authority and security to assure and assess the validity of privacy.

The ANCR record produced from a TPI Assessment is a capture of digital governance and surveillance context, and it is anchored with proof of knowledge required to generate the record. Capturing the point of presentation of PII Controller Identifiers, privacy rights access point and importantly, under which digital governance framework to which personal data processing is being governed.

The ANCR record, in which the PII Principle is the holder and controller of this record, can be presented as a micro-notice claim and used as a credential to engage PII Controller privacy services and track the PII Controller performance.

Most assessments for conformance of privacy information or services are mapped to analogue legal requirements which measure response times in days, out of technical context.  TPI’s all measure how dynamic privacy service information is in context, and provides a rating, from -3 to +1, in which +1 is for a Dynamic, in context transparency performance indicator, introducing an active state transparency measure for capturing dynamic digital transparency and consent performance, for the first time.

Cyber physical security and digital privacy through the decentralized authority inherent in the Notice Record.

Why was this specification written?

* Give up privacy to access privacy service.
* No record of digital relationship.
* No receipt for consent.

At the time of writing this specification, transparency and consent is governed predominately by commercial governance frameworks that utilize digital identity management technologies to identify people, without identifying themselves in a standard way online, which compliant and conformant, presenting critical cybersecurity risks.

These risks are exacerbated when PII Principals use privacy services online, as PII identifiers are captured and collected at an attribute level (known also as meta-data), which means individuals must relinquish their digital privacy, to access online privacy services. As these technologies themselves are used to profile and track data subjects presenting systemic obstacle to accessing privacy services in a meaningful way for the PII Principal.

The second systemic obstacle being that individuals do not have their own records for digital identity relationships, which prevent people from data controls that are autonomous, subjecting them to terms and condition for privacy access. The ANCR record is used to address this systemic challenge, with a proof of knowledge, legal claim for data subject access rights.

What’s more, an ANCR Record, can be used to generate consent notice receipts, to enable the individual to direct a primary and secondary consent in any given context. Which is the focus of the ANCR Record Framework (ref).

Why Transparency Performance Indicator’s?

Currently, there is no way for people to see who is tracking them and to understand how digitally exposed one is, in any given physical/digital surveillance context. Data control, access to digital privacy information for consent, to test to see what consent (privacy rights) requests response times are.

TPI’s indicate if the digital information provided upon contact with a digital service is capable of meeting this basic requirement and capable of dynamic data access and controls.

Digital transparency around purpose of use, who benefits, how and where data is processed, is extremely important security and privacy session attributes information, used in the TPI scheme assessments. Without a standardized approach to the presentation of digital transparency it is difficult if not impossible to make decisions about the creation and subsequent necessary, tracking and monitoring of personal data and digital identifiers.

TPI’s conformity and compliance assessment for digital transparency can then be useful to dramatically improve the safety, security, privacy usability and awareness for people in context measuring the operational performance of digital privacy at the moment.

About the Scheme

The TPI Scheme presented here is scoped to specify the public digital transparency assurance level 0 in the ANCR Framework. Referred to as LoTA0, in the ANCR Framework includes:

A conformity and compliance assessment scheme, implemented in 2 parts to generate a full operational transparency report.

TPI Scheme 1 Part 1 - Conformance

* initial test to diagnose the operational capacity of privacy services in any specific context.

TPI Scheme 1 Part 2 – Compliance (found in Appendix A)

* specifies an example operational transparency compliance performance test, in which the transparency is tested by generating a privacy rights-based request, to access privacy services.

Part 1 refers to conformance with digital identifier elements required to be presented to initiate a session, and is the body of this document, while TPI Scheme 1, Part 2, is Appendix A, which is the next set of TPI elements audited for compliance with international digital governance transparency requirements referenced in Conv. 108+. Article 14.

The presentation of 4 Transparency Performance Indicators, which capture transparency and data capture practices in context are used to test the self-asserted information for its operational usability.

These 4 TPIs Scheme 1, Part 1, and Scheme 1 Part 2 can be used together with the Guidance – Appendix –, for the public interest application, as well as the demonstration of this project’s use of the digital credential. In this regard, this TPI Scheme is for ANCR Transparency framework Level of Assurance 0.

TPI’s specified focus on the initial point of contact. The publicly required information that MUST be provided, referring to the PII Controller Identity and Contact information which is required in all privacy legal instruments. Transparency in this regard is a universal requirement, and required for free, prior and informed consent to scale as digital privacy online.

The TPI’s here are used to assess session-based data capture and self-asserted information by organizations, referred to as Level of Trust Assurance 0, in the ANCR record framework. Which means the TPI report, provides the same level of assurance as a privacy policy link or page does on website, or a sign. In which there is no additional assurance of the validity of the PII Controller information provided.

Note to reader: The ANCR Record Framework presents 4 levels of transparency assurance for PII Controller Notice Credentials, which can be use in 3 vectors if digital governance, 1. Personal data control 2. Data Protection 3. Co-regulation, which is what is assessed in this document at the public assurance level 0.

TPI 1 - Measuring the Timing of PII Controller Identity Notification:

This TPI captures when the Controller's legal entity and accountable Privacy Officer (digital identifiers) provide notice of their identity; measuring if it is

1. Before,
2. At the time of,
3. During, or
4. After personal data is captured.

Assessing how dynamic and operational transparency to provide a way for an individual to assess if they can trust a service or not. Assessing compliance with Article 14.1, specifically defined in Article, 15 1, a) and b)

Information to be provided where personal data are collected from the data subject

1. Where personal data relating to a data subject are collected from the data subject, the controller shall, at the time when personal data are obtained, provide the data subject with all of the following information:

(a)  the identity and the contact details of the controller;

(b)  the contact details of the data protection officer;

Note: This is the most common legislated privacy element in the world, required and mappable to all privacy legislation and instruments. [(ISTPA 2007)](https://kantara.atlassian.net/wiki/spaces/WA/pages/2916489/Auxiliary+Reference+Documents?search_id=d979240f-f5c8-42e3-8c8c-5dbd2dd748d0)p.64

TPI 2 - Measures Required Data Elements

This TPI captures the data elements required for all data processing (except when legally regulated otherwise [3] derogation). In “all” cases a Notice of who is processing your data, who is accountable and the privacy contact information for access to personal information is required to be *provided*. [Art 14.1]

Specifically, a first-time notice must include 2 factors, 1) is notice credential 2) is the practices relating to permissions permitted by the purpose, which is tested in TPI Scheme 3 (out of scope of this document).

These Digital Privacy transparency elements: are minimum required to operationalize transparency and accountability.

1. Legal Entity Identity Name,
2. Address, Contact information
3. Name or role of Data Privacy Officer (or the authoritative owner and Accountable Person (AP) in charge of that legal entity.
4. Privacy services access and contact point information.
5. Privacy or other Governance Policy Governing the processing of personal information.
6. Transparency before use
   1. Digital Gov-Framework
   2. Legal Basis for Purpose of initial Processing of PII
   3. Recipients or categories of recipients if Any
   4. Transfer of data on networks out of Country, to a 3rd Country,
   5. The existence of adequacy,
   6. Existence of safeguards, where to get a copy of them, or where they have been made available. (note)

\*\*\* edited to here \*\*\*

TPI 3 - Measure of Transparency Accessibility

This TPI measures the performance of transparency accessibility by capturing how available TPI 2 digital credential information is. For example, is it available prior to the digital session and capture of PII, is TPI-2 information presented in a pop-up notice at the initiation of a digital service session? or is it required to click a link, e.g., to a privacy policy, is required pre-session information displayed at the earliest opportunity? Is the operational transparency information on the first screen? or is it at a the bottom through scrolling multi-pages, of display (with links not highlighted), definitely not accessible to children or parents.

In this way this TPI – for Informational accessibility, is a key transparency metric that indicates if the context is digital privacy capable of being inclusive and accessible.

TPI 4 - Measures security information integrity

This TPI captures the (Secure Socket Layer/Transport Layer Security) SSL/TLS ([e.g. 1.3](https://datatracker.ietf.org/doc/rfc8446/)) certificate or security keys ([e.g. JOSE](https://datatracker.ietf.org/group/jose/about/)) to compare its meta-data against the required information in TPI 2. This is very much along the lines of [Certificate Transparency](https://certificate.transparency.dev/) but looking specifically at whether the security certificate conforms to the ANCR Record profile policy. E.g., does the SSL certificate Organization Unit field and Jurisdiction fields match the captured legal entity information, how does the policy and jurisdiction here related to other beneficial entities. Importantly does this align with the policy expectations of the person.

TPI Metrics

Table 1: Transparency Performance Rating

The TPI Rating system is designed to measure the operational performance of the information. This rating is unique as it allows for an assurance levels that account for pre-assured, dynamically assured metric.

+1 refers to a technical framework and PII Controller transparency prior to the initiation of a session providing security-based trust assurances.

0 refers to dynamic a measure of providing dynamic transparency in the context of once a technical session starts (which is at the time of collection), in context transparency over purpose and disclosures,

-1 provides for analogue legal expectations, represented by legal requirements not specific to a digital context.

-2 provides for low quality provision.

-3 provides a metric for non-operable transparency and digital privacy.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Rating** | **TPI1 - Timing (wrt to processing)** | **TP2** | **TPI3 Accessibility (trans performance)** | **TPI4 - digital security** |
| +1 (assured) | Before  [Transparency of control/governance - Before, during or after processing] | +1 - credential is registered and present | Controller identity is presented prior to data collection - e | Security is required prior to collection (digital wallet based) |
| 0 (dynamic assurance) | Just In timex | 0 credential is presented just in time (automated check and first-time notice) | Embedded as a credential linked to authoritative registries. | is assured -e.g., certificate is specific to and matches controller and context |
| -1 (analogue assurance - online) | During | controller information is accessible during collection | PII Controller Identity prominently displayed on first view – prior to processing first page of viewing, the assessment question would be | not-specific to controller - does not match jurisdiction |
| -2 - (not mandatory in flow) | Available | Controller information is linked | is linked not presented | does not match you |
| - 3 (non-operative) | After | Controller information not present | Identity or credential is not accessible in context - e.g., two or more screens of view away, or privacy contact is mailing g address and non-operative in context of data collection. | is not valid or secure provider |

Table 3: Transparency Performance Indicator Record Rating Example

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Field Name** | **Field Description** | **Requirement: Must** **Shall** **May** | **TPI 1**  before (out of band), just in time (before), at the start - or time of collection, during collection and after collection | **TPI 2**  **Available**  **Not Available** | **TPI 3**  **Rate: +1,**  **0,**  **-1, -2,**  **-3,** | **TPI 4** **Certificate or Key**  **CN-Matches** **OU – Match** **Jurisdiction – Match (optional)** |
| Notice Location | Location the notice was read/observed | MUST | before, during, after | Present | +1 | found |
| PII Controller Name | Name of presented organization | MUST |  | Present | 0 | Match |
| PII Controller Address | Physical organization Address | MUST |  | Present | 0 | Not match |
| Privacy Contact Point | Location/address of Contact Point | MUST |  | Present | 1 | Not match |
| Privacy Contact Method | Contact method for correspondence with PII Controller | MUST |  | Present | -1 | No Match |
| Session key or Certificate | A certificate for monitored practice | MUST |  | Present (or Not-found) | 1 (or –3 ) | Present (or No Security Detected) |

Summary

In summary, Transparency Performance Indicators, TPI’s are specified here for people to use depending on context, location, security, and other out of session elements. TPI’s are used to determine with one's own soverign reasoning whether to trust a service, not an external framing, opinion or forced default.

These TPI’s use open standards, with an open license specified for people to be able to use and create records they can own and keep across and independently of service providers.

TPI 1 is a measure of trust, so that when asked, “Do you trust (accept) a service”, you necessarily know who is processing your data before, during or after.” Overwhelmingly people indicate trust would be higher. if notified prior to data capture, which only makes sense.

TPI 2 is the legally required information, is it present, and then used as a, generally available, standardized, and open metric for compliance.

TPI 3 is an indicator for how accessible and inclusive is digital transparency.

TPI 4 validates for the individual if security “adds up” for the them and in doing so addresses a critical security gap widely overlooked today.

1. TPI Compliance Assessment Scheme Part 2
   1. Operational Transparency Assessment

TPI – Operational Transparency Performance assurance test,

Most often, there is a missing, but required for operational digital governance, identifying attributes, held by commercial interest which systemically capture and control digital commons assets.

1. Transparency required to be available in context, during the time when PII is obtained (found in Transparency Statement or Privacy Policy [note]
   1. Period of time data stored
   2. Existence of rights/controls to access and rectify
   3. Existence of right to manage consent
   4. Existence of right to lodge a complaint with a DPA
   5. Whether processing is based under a statutory, or contractual context or whether necessary for entering a contract, if the PII is obliged and the consequences of failure to provide this data,
      1. Note: (Added by Editor) and who controls access to the authoritative version of the data processed.
   6. Existence of
      1. AI, or any Automated decision making technology,
      2. digital identity management surveillance technologies
      3. any profiles generated
      4. Meaningful information about the logic involved, [Note]
         1. its significance
         2. Expected consequences for and to Data subject
2. TPI Assessment Guidance

The TPI Rating system is designed to measure the operational performance of the information, for example if only a mailing address is provided for a privacy contact, on a website, this is considered non-operable according to the context. This means that privacy access and specific information is not retrievable in the context of data collection. Demonstrating a non-performant form of data governance.

Conformity Assessment, utilizing 29100 framework for generating a record of processing activity, according to the information presented in context.

* 1. TPI’s are captured in sequence

1. TPI measuring the point when the individual is notified versus when personal information/digital identifiers are collected and processed. Capturing the timing of notice presentation in relation to first data capture

2. TPI measuring the contents of the notification for required PII Controller digital attributes that correspond to the physical brick and mortar attributes specified in privacy, security, safety and surveillance legislation. This is the Controller identity and entity information and access point

3.TPI for how accessible the transparency is (transparency of digital transparency and the accessibility of the notice access for use

4.TPI validating the cybersecurity information versus the digital transparency information capturing the SSL certificate or keys and its associated meta-data.

Combined, these TPI’s provide an overall Indication of the operational state of digital privacy.

* 1. TPI – Scheme 1, Part 1(S1-P1) metric logic

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Rating - Instruction** | **TPI 1 - Timing (wrt to processing)** | **TP2 - Required Info Presentation** | **TPI3 Accessibility (trans performance)** | **TPI4 - Digital Security** |
| +1 (assured) | PII Controller credential is displayed, using a standard format with machine readable language and linked, for example, in an http header in a browser | Controller is discoverable automatically prior to session (out of band) in a machine readable format. Number of ways  1. is a Controller Identity Trust registry  2. is client side record of processing (via a wallet or browser) | Controller identity is presented prior to data collection | Security is required prior to collection (digital wallet based) |
| 0(dynamic assurance) | PII Controller Identity or credential is provided in first notice | 0 credential is presented just in time (automated check and first time notice) | Embedded as a credential and dynamically available upon access (almost just in time) | is assured -e.g. certificate is specific to and matches controller and context |
| -1 (analogue assurance - online) | The Controller Identity, or screen with the Controller Identity is one screen and click away. For example, the privacy policy link in the footer of a webpage | controller information is accessible (not presented) during collection | PII Controller Identity prominently displayed on first view – prior to processing first page of viewing, the assessment question would be | not-specific to controller - does not match jurisdiction |
| -2 - (not mandatory in flow) |  | Controller Credential information is linked during collection | is linked not presented | does not match ou |
| -3 ( non operative) | PII Controller Identity is not accessible enough to be considered ‘provided’ | Controller information not present | Identity or credential is not accessible in context - e.g. two or more screens of view away, or privacy contact is mailing g address and non operative in context of data collection. | is not valid, secure, or recognized provider.  Not security operational (proving non reciprocal security assurance) |

* 1. 1.2.    Table 2 : ANCR Record Schema Example

In this appendix, here is a notice record template to fill out when recording a rating, along with a rating template, and analysis results format.

Notice Record Schema & , Notice Record and Report - Template and Example

|  |  |  |  |
| --- | --- | --- | --- |
| FIELD NAME | FIELD DESCRIPTION | REQUIREMENT: MUST, SHALL, MAY | FIELD DATA EXAMPLE |
| Notice Location | Location the notice was read/observed | MUST | [Walmart.com | Save Money. Live Better](http://www.walmart.com/) |
| PII Controller Name | Name of presented business | MUST | Walmart |
| Controller Address | The physical address of controller and/or accountable person | MUST | 1940 Argentina Road Mississauga, Ontario L5N 1P9 |
| PII Controller Contact Type | Contact method for correspondence with PII Controller | MUST | Email, phone |
| PII Controller-Correspondence Contact | General contact point | SHALL | [Privacy@org.com](mailto:Privacy@org.com) |
| Privacy Contact Type | The Contact method provided for access to privacy contact | MUST | email |
| Privacy Contact Point | Location/address of Contact Point | MUST | [Org.com/privacy.html](http://org.com/privacy.html) |
| Session Certificate | A certificate for monitored practice | Optional | SSL Certificate Security (TLS) and Transparency |

1. Digital Transparency Code of Conduct

These digital transparency code of conduct rules coincide with the TPI’s presented and reference the international adequacy requirements for transparency required for digital identifier management. In reference to [Report on the Adequacy of Digital Identity Governance](https://diacc.ca/2022/03/31/adequacy-of-identity-governance-transparency/), for cross border transparency and consent.

PII Controller must:

1. Must provide their PII Controller Notice Credentials, before or at the time of processing personal information (TPI 1) Article 14.1
2. PII Controller credential information must be accessible
3. PII Controller credential information must be operationally capable for access to rights with evidence of notice & consent
4. The security context must match the controller’s jurisdiction where it is assumed PII is processed

Endnotes

1 Lizar, M, Pandit, H, Jesus, V, “Privacy as expected Consent Gateway”, Next Generation Internet (NGI) Grant [Access July 4] privacy-as-expected.org/