

TERMS OF SERVICE ANALYSIS

Terms of Service Analysis and Suggestions for Privacy, Inc

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Introduction

Every company in the digital space has some sort of agreement with their customers, called a Terms of Service agreement. This agreement outlines what rights are appointed to their customers, what rights are appointed to the company, what will occur should the customer/company break the agreement, and how a customer can proceed with litigation, should they feel it necessary. Privacy Inc. must have a similar agreement in order to protect both the company and the consumer from litigation. This analysis will compare three terms of service agreements from well-established, internet-based companies – Google, Apple, and Facebook – and determine what elements of each would be a valuable asset to that of Privacy Inc.

What is Expected of the Consumer

The first section of this analysis details what the terms of service for Privacy Inc should state in regard to what the consumer is responsible for. In Google's terms of service, it says the customer is responsible for respecting others, understanding the license agreement, and understanding/following the terms as they are laid out in this document. This provides a sense of control that the company has over its users, preventing the company and its users from malicious actors. These terms are also laid out in vocabulary that the average person without a law degree would be able to understand. This is crucial to ensure that every user of your service can read and ensure they are following the agreement. For Privacy Inc.'s Terms of service, it should say the following: "As a user of

Privacy Inc.'s services, you are expected to read, understand, and follow the terms of this document. While interacting with other users, you must be courteous and respectful, to ensure that our services are a safe place for all; regardless of gender, race, nationality, or background. Actions that are forbidden by this term include but are not limited to: hate speech, sexually explicit content, bullying, harassment, spam, unauthorized advertising, and scams." These terms are basic and straight to the point, making it easy for the consumer to understand what is being asked of them.

What is Expected From Privacy Inc.

A company's Terms of Service is not just a list of things the user cannot do, however. That company is also held to a higher standard and must hold up their end of the agreement. According to Facebook's Terms of Service, Facebook promises not to sell your personal information to advertisers, such as your name and email. They will, however, use your browser cookies to advertise based on the things you look at online. The terms also state that Facebook is free to the user, and advertising is how the site is paid for. Adding similar details such as this in the terms ensures complete transparency with how the users' data will be handled. Users must be able to trust the company with their data, as they are typically concerned with privacy, and keeping some pieces of information off the grid. No user is going to want to use a service that sells their information to the highest bidder. Privacy Inc.'s agreement should state the following: "We also have rules that we have to follow in order to ensure our platform can be comfortably used by all. Here at Privacy Inc, your privacy is very important to us. It's even in our name! This is why we as a company will never share your personal data with advertisers. We believe that all of your personal information should be controlled by you, and we will not use any of it without permission.

We must be transparent, however. Since Privacy Inc. is a site that is completely free of cost to the user, we must have a way to keep the lights on. Every cent Privacy Inc. earns is from advertisers. In order to make these advertisements the most efficient and ensure they reach the right people; we will send your browser cookies to advertisers. This allows them to provide advertisements that are tailored to you and your interests. If you would like to stop receiving tailored ads, the option to do so is available in your settings.” Similar to the *What is expected of the consumer* section, this wording is lighthearted and easy to read, ensuring that there isn’t any confusion in the agreement.

Litigation/Venue

Terms of service must also include what will happen if this agreement is broken from either side. Jurisdiction must be decided, and venue is chosen by the company. In Apple’s terms of service, you agree to submit jurisdiction to the courts in Santa Clara County, California. This is put in place to discourage litigation from areas that are far from the company, making the cost of litigation more than the reward. This is also in place because – from a business standpoint – it makes more sense to handle court disputes in your home county, instead of putting time and effort into the laws of different areas across the globe. Privacy Inc.’s litigation policy should be stated as so: “By using the services of Privacy Inc., you agree to handle any legal disputes through the jurisdiction of the courts in Washtenaw County, Michigan, where Privacy Inc. is located.”

Conclusion

Wording is very important for a thorough and clear agreement between two parties. For instance, Google and Facebook both take a consumer grade approach to wording. Their terms of

service are very easy to read and understand. This could also have some unintended side effects, however. Because their language is not too specific and is intended for a general audience, this may open the companies up for loopholes in litigation against them. If you look at Apple's approach to their terms and conditions, it is very thorough and specific, making sure there is no possible confusion in its wording. This also makes their legal agreement less available for the general public to understand. Privacy Inc.'s approach should be more similar to Facebook's or Google's, as it would be more beneficial for the average person to understand it, rather than someone with extensive legal experience.

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