

users should gauge not just the effect their activities may have on the individuals about whom personal information is obtained. They should also consider other factors, such as public opinion and market forces, that may provide guidance on the appropriateness of any given activity.

18. After assessing the impact on information privacy, an information user may conclude that it is appropriate to obtain and use personal information in pursuit of a current activity or a planned activity. A planned activity is one that is clearly contemplated by the information user, with the present intent to pursue such activity in the future. In such cases, the information user should obtain only that information reasonably expected to support those activities. Although information storage costs decrease continually, it is inappropriate to collect volumes of personal information simply because some of the information may, in the future, prove to be of some unanticipated value. Also, personal information that has served its purpose and can no longer be reasonably expected to support any current or planned activities should not be kept.

19. Finally, information users should use the personal information they have obtained only for current or planned activities or for compatible uses. A compatible use is a use of personal information that was within the individual's reasonable contemplation or sphere of consent when the information was collected. The scope of this consent depends principally on the notice provided by the information collector pursuant to the Notice Principle (II.B) and obtained by the individual pursuant to the Awareness Principle (III.A). Without this compatible use limitation, personal information may be used in ways that violate the understanding and consent under which the information was provided by the individual. This may subject the individual to unintended and undesired consequences, which will discourage further use of the NII.

#### II.B. Notice Principle:

Individuals need to be able to make an informed decision about providing personal information. Therefore, those who collect information directly from the individual should provide adequate, relevant information about:

1. Why they are collecting the information;
2. What the information is expected to be used for;
3. What steps will be taken to protect its confidentiality, integrity, and quality;
4. The consequences of providing or withholding information; and

5. Any rights of redress.

20. Personal information can be obtained in one of two ways: it can be either collected directly from the individual or acquired from some secondary source. By necessity, the principles governing these two different methods of obtaining personal information must differ. While notice obligations can be placed on all those who collect information directly from the individual, they cannot be imposed uniformly on entities that have no such direct relationship. If all recipients of personal information were required to notify every individual about whom they receive data, the exchange of personal information would become prohibitively burdensome, and many of the benefits of the NII would be lost. However, if such users intend to use the information for uses not compatible with the understanding and consent of the individual, individuals must be given the ability to limit such use (see II.D, the Fairness Principle). Accordingly, notice obligations apply only to those who collect personal information directly from the individual and any users who want to use the data for incompatible uses.

21. This requirement specifically applies to all parties who collect transactional data generated as a byproduct of an individual's participation in the NII. Such parties include not only the party principally transacting with the individual in order to provide some product or service but also to those transaction facilitators such as communication providers and electronic payment providers who help consummate these transactions. For example, if an individual purchases flowers with a credit card through an on-line shopping mall accessed via modem, the Notice Principle applies to all parties who collect transactional data related to the purchase; not only to the florist, but also to the telephone and credit card companies.

22. In sum, all parties who collect personal information directly from the individual—whether they are the party principally transacting with the individual or are merely a transaction facilitator—should provide a notice that will adequately inform the individual about what the information is expected to be used for, including current and planned activities, and expected disclosures to third parties.

23. By providing notice, information collectors afford the individual a meaningful opportunity to exercise judgment in accordance with the Awareness Principle (III.A). Together, the Notice Principle and the Awareness Principle highlight the interactive

nature of the NII and how responsibility must be shared between those who collect personal information and those who provide it. The importance of providing this notice cannot be overstated, however, since the terms of the notice determine the scope of the individual's consent, which must be respected by all subsequent users of that information.

24. Having said this, it is important to realize that what counts as adequate, relevant information to satisfy the Notice Principle depends on the circumstances surrounding the collection of information. In some cases, a particular use of personal information will be so clearly contemplated by the individual that providing formal notice is not necessary. For example, if an individual's name and address is collected by a pizza operator over the telephone simply to deliver the right pizza to the right person at the right address, no elaborate notice or disclaimer need precede taking the individual's order. However, should the pizza operator use the information in a manner not clearly contemplated by the individual—for example, to create and sell a list of consumers of pizzas containing fatty ingredients to health insurance companies—then some form of notice should be provided. In other cases, not every one of the components of the Notice Principle will need to be conveyed. For example, a long distance carrier that uses transactional data generated as part of a telecommunications transaction only to route calls and create accurate billings might need only provide notice of its data security practices.

25. While the Notice Principle indicates what might constitute the elements of adequate notice, it does not prescribe a particular form for that notice. Rather, the goal of the Principle is to ensure that the individual has sufficient information to make an informed decision. Thus the drafters of notices should be creative about informing in ways that will help the individual achieve this goal.

26. Finally, although the Notice Principle requires information collectors to inform individuals what steps will be taken to protect personal information, they are not required to provide overly technical descriptions of such security measures. Indeed, such descriptions might be unwelcome or unhelpful to the individual. Furthermore, they may be counterproductive since widespread disclosure of the technical security measures might expose system vulnerabilities, in conflict with the Protection Principle (II.C).

#### II.C. Protection Principle: