PRIVACY, CLICKWRAPS AND CONSENT:

WHAT DOES IT MEAN WHEN WE CLICK, 'AGREE'?

A Curriculum Resource for Elementary and Secondary Classrooms

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Introduction

Substantial research indicates that many young people in Canada regularly use **digital applications** ("apps"), social media and other internet-based technologies in primary and middle school and that the overwhelming majority do so by the time they reach secondary school.

These digital applications amount to legal **contracts** between the user and the provider. The simplest basis of legal contracts revolves around the notion of **consideration**. When people or groups agree to enter a contract, they are making an agreement to exchange something to get something else. The thing they agree to exchange is known as "consideration".

Unlike most other contracts, however, few users read or understand the terms of the contacts they enter into in this way. This means they may not understand what consideration they are giving in exchange for whatever they are receiving.

The purpose of these teaching materials is to build student awareness of the legal context and privacy concerns associated with digital technologies many engage with every day. The materials follow Ontario curriculum expectations and offer age- and curriculum-appropriate options for learners at different levels. Each of the learning activities has options for more and less advanced ways to engage with the questions these technologies raise. With a better understanding of the issues surrounding these technologies, students will be better prepared to make healthy choices concerning their use of technology and to engage in civic action in support of their communities.

There are three components to these materials. The first part lays out step-by-step learning activities with suggestions for how to present them to students. The second part of the resource is a brief slide deck to support introducing some of the content. The third part is intended as a support for teachers. It provides additional information about some of the issues raised by digital technologies, what we consent to when we use them, and prompting questions teachers may wish to raise in classroom discussions to support student engagement and learning. The first and third parts are within this document, while the slide deck can be downloaded separately.

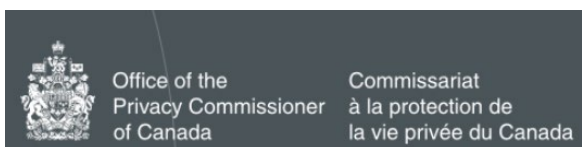Thank you! Feel free to contact us at info@cclet.org with questions.

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Acknowledgements and Legal Disclaimer

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Learning Outcomes

By completing these activities, students will be more able to:

- Explain the importance of privacy agreements in regard to digital apps.

- Explore innovations in digital technology and analyze their benefits and limitations.

- Think critically about the ethics and consequences of people entering into certain privacy agreements with corporations and digital service providers.

- Identify ways they can impact and influence how makers of apps operate in future.

Curriculum Links

These learning activities help to meet Ontario Ministry of Education curriculum expectations in Grades 5, 6, 10, 11 and 12. See the Annex for more detailed information.

Teaching Activities

1 - MINDS ON! WHAT IS "THE BIGGEST LIE ON THE INTERNET?"

Begin by asking students think about how much time they spend using different apps, websites and social media platforms. Invite some to share what they like about them or how they use them.

Next, ask if they remember agreeing to any kinds of terms or conditions before using or installing these. Ask how often they try to read these terms and conditions before agreeing, and if they believe they understood them before agreeing.

Using slides 2-5 of the slide deck, show examples of funny or concerning terms of service. Consider reading these aloud to ensure everyone understands and has time to react. Ask if they have heard of anything similar and give brief discussion time.

Activity 1.1 – "The Biggest Lie"

Show the short video, "What is The Biggest Lie on the Internet" (Slide 6[1])

- Invite students to share their reactions and what, if anything, was new information
- Consider asking why they think many of these services are free of charge. What do the developers get out of doing this?
- Clarify that if they are not paying, the information collected from you as you use a service is the product. This information is very valuable and is bought and sold like any other product.

Move students into pairs or small groups. Using school tablets or individual devices, select 1-3 applications, platforms, websites or other services.

Easy

Ask students to try to answer some of these questions:

- What is the app?
- What do you use it for?
- Can you find the name of the company that makes the app? How many taps/clicks did it take?
- Can you find out where the company is located?
- Can you find the terms of service? How many taps/clicks did it take?
- Can you find a privacy policy? How many taps/clicks did it take?

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[1] Source: Obar, J. (2022, June 23). *What is the biggest lie on the internet?* YouTube. https://www.youtube.com/watch?v=fL5F4gDKBSQ

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Add these questions:

- Read the first 3 paragraphs of the terms of service OR privacy policy and summarize them in your own words.
- Can you figure out what information the app will be gathering from you?
- Can you figure out what that information will be used for?
- On a scale of 1-10 with 10 meaning 'very easy', how would you rate how easy the app makes it to understand what you are agreeing to give and who you are agreeing to give it to?

Consider displaying Slide 7, "A Closer Look at Terms and Conditions" so that the questions are available for student reference while they work independently.

Depending on whether students are engaging the advanced option, give 5-10 minutes to work independently then take up their responses.

Before moving to the next activity, ask students whether what they have discussed has made them more likely to try to understand terms of service and privacy agreements before agreeing to them

2 – DOES PRIVACY MATTER? HOW IS DATA USED?

One of the largest uses of data is to direct digital advertising. While it is difficult to accurately assess the total value of this data, in 2021 the *Wall Street Journal* reported that digital ads were then worth over $450B annually[2].

Data is also aggregated and analyzed using sophisticated computer programs to build models that claim to be able to predict how people will behave, what they will respond positively and negatively to, and even what kinds of personal challenges they might face in their lives. As the volume of this personal information grows exponentially, it is also increasingly used by artificial intelligence in ways that can determine who does, or doesn't, receive benefits and drawbacks in life.

Show the video, "The Future of College Admissions", produced by social media creator Danny Casale (@coolman_coffeedan)[3].

Check for understanding by asking students' impressions. Consider questions like:

- Has anyone seen this creator's work before?
- What do you think of the style of his art?
- What was the main idea of the video?
- Did you know that data could be used in this way?

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[2] https://www.wsj.com/articles/personal-data-is-worth-billions-these-startups-want-you-to-get-a-cut-11638633640

[3] Source: Casale, D., Obar, J., Gelb, D., & de Jesús, D. (2024). *The future of college admissions?* Vimeo. https://vimeo.com/949657632

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- Where do you think the data comes from?

Confirm that much of the data comes from people like them who have agreed to share personal information with digital providers.

Activity 2.1 – Video Jigsaw

Easy

For this activity, students will need access to the four short videos available at www.ainfocus.net:

- "How Our AI Works"

- "University Application"

- "AI Didn't Pick Me"

- "Data Retention"

Ask students to move into small groups for a jigsaw activity and assign each group one of the videos. After they have watched the video, ask each group to answer these questions:

- What is the main idea of the video you watched?
- Was it too long, too short, or just right in length?
- Did anything surprise you?
- Was it effective in communicating the main idea? Why or why not?

Consider displaying Slide 9, "AI Video Jigsaw" so that the questions are available for student reference while they work independently.

After 5-10 minutes, rearrange the students into new groups such that each new group has at least one representative from the prior group and ask each to give a 1–2-minute report on what they learned to their new group. As well, ask the new groups to answer an additional 2 questions (also on Slide 9):

- What order would you put them in to tell a story?
- What would that story be about?

After 5-10 minutes, take up the activity through class discussion.

Activity 2.2 – Dollars for Data Jigsaw

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The first portion of the activity involves an earlier privacy resource developed by OPC and CCLET. Ask students to move into small groups for a jigsaw activity, and invite them to access the Peer Privacy Protectors Project, available at https://cclet.org/resources/peer-privacy-protectors-project/.

Direct them to Section 3, "Dollars for Data". All groups should read the introduction on page 18, and individual groups should be asked to read pages 19, 20, 21 and 22, respectively, and identify the main idea of their page as well as any points of interest. Consider supporting by circulating amongst groups and asking probing questions.

After 5-10 minutes, rearrange the students into new groups such that each new group has at least one representative from the prior group and ask each to give a 1–2-minute report on what they learned to their new group.

3 – PROTECTING PRIVACY

The aim of this activity is to have students think about whether more should be done to ensure that more people understand what they are consenting to when they agree to terms of service and privacy policies.

Activity 3.1 – Orienting Discussion

Begin with a few prompting questions. Clarify first that there are no right or wrong answers, and that their honest opinions are what are the most important. In large group format ask students:

- Does what you have learned about data collection surprise you?
- Do you think it will make you more likely to read terms of service?
- Do you think this will make you less likely to use your favourite digital services?
- Do you think it will make you less likely to try new ones?

Clarify that when we agree to terms, we are entering a contract, just like when we buy things or accept a job. Contracts are agreements that can be enforced under the law. All the people involved in that agreement are called **parties**. For a contract to be legal, all the parties need to fully understand what they are agreeing to. In some cases, this means that people under a certain age cannot enter into contracts.

- Do you think most people understand what they are agreeing to when they agree to terms of service? Why?
- Do you think that if people did read the whole agreement, they would understand what they were agreeing to? Why?

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- Do you think that the digital service providers truly believe that people who sign up for their products have read and understood what they are agreeing to?
- Do you think that digital service providers believe people believe when people say they are the right age to sign up for their products?

Activity 3.2 – The Biggest Liars?

Advanced

Show the video, "The Clickwrap and the Biggest Lie on the Internet", up to the 6:20 mark (Slide 10).[4]

Easy and Advanced

Organize students into groups, and have them discuss the following questions:

- Who is lying in this agreement: the users, the providers, or both?
- If both, why are users lying and why are providers lying?
- Whose lies are most dishonest?
- Whose lies are most harmful?

Activity 3.3 – Taking Action for Meaningful Consent! (Easy and Advanced)

In this final section, students will think about ways to ensure more users of digital technologies understand what they are agreeing to and have more tools to control how their personal information is being used.

Display Slide 11.

Working individually or in groups of two or more, invite students to decide whether each of the strategies displayed there:

- Would help people **understand** or **control** what happens to their personal data
- Would work
- Might cause unintended consequences and what these might be

Debrief 2-6 of the strategies as a group.

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[4] Source: Obar, J. (2022, June 23). *The clickwrap and the biggest lie on the internet.* YouTube. https://www.youtube.com/watch?v=gtQ2tNUTF3Q

Activity 3.4 – Get Creative (Optional/Culminating)

As an optional or culminating activity, consider inviting students to create a brief, "tik tok" style video or an informative poster to focus on one of the strategies above or another part of these materials. They should be able to describe:

- Why they chose their topic
- Why they chose their format
- Who the intended audience is
- What the audience will learn

Big Ideas and Big Questions: Context for teachers using this resource.

Digital technologies such as downloadable applications, digital services, and social media accounts are ubiquitous in Canada today. People of all ages rely on them for leisure and socialization, for essential communication, for learning and work, to facilitate basic tasks, and for many other reasons.

For many people they are part of everyday life, and many people sign up for these services and platforms without giving very much thought to the legal agreements they enter when they do so. And yet using them generates a tremendous amount of data, which may be collected or used by the digital provider. Do people read the terms of service before clicking "agree"? If they do, do they understand them? How well do people understand what they are agreeing to as a condition of their use? How well do people understand what information will be collected and with whom it will be shared? How well do people understand what aspects of this information they can, or cannot, control?

i) **Fairness**
- Is a deal like a rule?
- Is a deal "fair" if someone doesn't have all the information?
- How can we decide if a deal or a rule is fair?

ii) What is **"The Biggest Lie on the Internet"**?
- Does the average person understand the agreements they enter in this way?
- Do makers of applications believe their users understand the agreements?
- Do makers do enough to make sure their users understand the agreements?
- What are **clickwraps** and how are they designed?

iii) What are some of the potential **consequences** of people entering these agreements?
- For them as **individuals**?
- Should people change their behaviour?

WHAT IS "THE BIGGEST LIE ON THE INTERNET"?

In this context, the biggest lie on the internet is said to be "I agree to the terms and conditions". This refers to the idea that individuals click "agree" or agree via service use when signing up and engaging with digital services.

The biggest lie on the internet is also an internet meme. The origins of the meme are unclear as is the date people started using it. In 2012, reference to the meme was made in a report by the CommonTerms project describing how many people were posting this comment on various social

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media sites. Searching for the biggest lie on the internet on social media sites today will likely produce various answers, but the concern about agreeing to service terms is still around.

Does the average person understand the agreements they enter in this way?

While it is difficult to generalize based on academic research conducted thus far, research suggests that individuals often ignore terms of service and privacy policies when signing up and using digital services. It is unlikely that an individual will understand service terms if they are not engaging with an organization's notice materials.

Research addressing individual understanding when people are asked to read notice materials does suggest that the complexity of service terms makes it difficult to support understanding. This is one of the reasons for the www.ainfocus.net project, which intends to help support efforts to make AI and related privacy concerns easier to understand.

In addition, it is important to emphasize that we shouldn't address privacy concerns based on an "average individual". Research is clear that members of marginalized and vulnerable communities are more likely to suffer from AI-inequities. As a result, it is important to address concerns unique to communities in need of support, as well as challenges to individuals within those communities.

Do digital service providers do enough to make sure individuals access, read, and understand the agreements?

In 2012, policymakers in the United States expressed clearly that digital service providers were not doing enough (via self-regulation) to protect privacy. Since that time, clickwraps have become normalized, which do prompt an additional privacy engagement, but don't really help engage people in privacy details. Long and complicated service terms remain, and clickwraps rush people through consent processes. These are just some of the concerns that need to be addressed.

What are clickwraps and how are they designed?

Clickwraps are problematic user-interface designs, common to digital services, often encountered by individuals when signing up for a service. Often with a prominent agree button and less prominent links to policies, they do prompt people to question whether they want to agree to service terms but end up just helping people rush to the services they want. Research suggests that people want to enjoy the ends of digital production, without being inhibited by the means by which they access it. **Clickwraps help people rush through online consent processes and help people move as quickly as possible towards monetized sections of services.**

What are some of the potential consequences of people entering these agreements?

While a court of law would never allow a company to do something as extreme as keep a first-born child or vital organ, there are many potential harms that are implications of service use. Automated decision-making to facilitate eligibility determinations is a considerable concern. As AI is normalized at the bank, in healthcare, in employment, at universities, and in criminal justice (to

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name a few), there are many potential implications that people are seemingly ignoring by not engaging with service policies.

Meaningful consent is vital to ensure that people can make decisions for themselves. This becomes increasingly difficult in AI contexts as the distance grows between data collection and data use for AI development. While it is important that people work to protect themselves, by engaging in these debates we are also helping our neighbours who may be more likely to suffer from AI-inequities. Democratizing oversight processes is important to ensure protections are realized, and that nuanced concerns specific to marginalized and vulnerable communities, are prioritized and addressed.

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Annex: Ontario Ministry of Education Curriculum Links

GRADE 5
Science and Technology, Strand A - STEM Skills and Connections
A3.2 investigate how science and technology can be used with other subject areas to address real-world problems
Science and Technology, Strand B - Life Systems: Human Health and Body Systems
B1.1 assess effects of a variety of social and environmental factors on human health, and describe ways in which individuals can reduce the harmful effects of these factors and take advantage of those that are beneficial
Social Studies, Strand B - People and Environments: The Role of Government and Responsible Citizenship
B1.2 create a plan of action to address a social issue of local, provincial/territorial, and/or national significance
GRADE 6
Science and Technology, Strand A - STEM Skills and Connections
A3.2 investigate how science and technology can be used with other subject areas to address real-world problems
Social Studies, Strand B – People and Environments: Canada's Interactions with the Global Community
B2.1 formulate questions to guide investigations into global issues of political, social, economic, and/or environmental importance B2.2 gather and organize information on global issues of political, social, economic, and/or environmental importance, including their impact and responses to them, using a variety of resources and various technologies
GRADE 10
ICD2O Computer Studies: Digital Technology and Innovations in the Changing World
A2. Digital Technology and Society: demonstrate an understanding of important social, cultural, economic, environmental, and ethical issues, as well as contributions and innovations involving diverse local and global communities, related to digital technology

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B1. Understanding Hardware and Software: demonstrate an understanding of the functions and features of the hardware and software they encounter in their everyday life

B3. Cybersecurity and Data: demonstrate an understanding of safe and effective practices related to data and cybersecurity in various contexts

B4. Innovations in Digital Technology: investigate current and emerging innovations in digital technology, including automation and artificial intelligence, and assess their benefits and limitations

CHV2O Civics and Citizenship

C1.5 Explain various ways in which people can access information about civic matters, highlighting the importance of applying related digital literacy and critical-thinking skills, and assess the effectiveness of ways in which individuals can voice their opinions and influence others' opinions on these matters, including through social media.

GRADE 11

CLU3M Understanding Canadian Law, University/College Preparation

B3.4 identify the roles and responsibilities of various individuals and groups within the Canadian justice system (e.g., individuals have a responsibility to know the law and not to participate in a crime; corporations have a responsibility to comply with government regulations in the conduct of their business; governments have a legal obligation to create and enforce measures to protect citizens from avoidable harm)

B4.2 evaluate the responsiveness of Canadian legislation to societal issues (e.g., protection of privacy, protection of intellectual property) raised by developments in science (e.g., advances in human genetics, new understanding of the effects of toxic/harmful substances) and technology (e.g., advances in information and communications technology)

D4.4 explain the legal implications of various types of contracts (e.g., mobile phone contracts, loan agreements, leasing arrangements, product warranties, credit card agreements, landlord-tenant agreements) and describe ways in which contract law may need to be updated to respond to changing conditions (e.g., technological advances, the growth of social media)

GRADE 12

Legal Studies – Workplace Preparation

C3.2 evaluate from a legal perspective the impact of advances in technology on human rights protection in Canada and in the world

E3.1 analyse legal issues related to the role of new technologies in workplace practices