

Earthlink and Google Final Contract Chart

	Recommended Privacy and 1st Amendment Protections	Earthlink (monthly charge)	Google (no fee)
What personal information is collected about users?	None, if possible. Anonymous and pseudonymous access should be available.	<p>No limitation in contract regarding the type of information that EarthLink can or will collect.</p> <p>Contract defines two types of information, “Protected Personal Information” (“PPI”) and “unique information.”</p> <p>PPI is defined as information that “personally identifies the person to which such information pertains.” It includes, but is not limited to, information such as name, address, phone number, social security number, medical profiles, and credit card information.</p> <p>“Unique information,” includes, but is not limited to, “a unique identifier, email address, biometric information, Location Information, IP address or MAC address.</p>	<p>Only limitation in contract regarding the type of information that Basic Service Provider can or will collect is that “[U]sers shall be presented with options to register or login that require ‘minimal’ information from the user.” (10.4.2)</p> <p>No definition of “minimal.”</p>

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How is this information used?	Only for purposes necessary to operation of the network.	No limitation in contract about how EarthLink may use the collected information.	No limitation in contract about how Basic Service Provider may use the collected information.

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How long is this information stored?	A data retention schedule should specify that data are kept only for so long as needed to operate the network.	<p>No limitation in contract regarding how long EarthLink can store PPI.</p> <p>EarthLink shall retain Location Information for no longer than sixty (60) days.</p> <p>However, this limitation does not apply to Aggregated Location Information or as required by: (i) Applicable Law; (ii) an order of an governmental authority evidenced by court-supported documentation; or (iii) a pending internal investigation to determine if a fraud, crime, or network security breach of a material nature has occurred. (10.3.1.4.b)</p>	No limitation in contract regarding how long the Basic Service Provider can store any information.

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When is information shared?	Only when necessary for operation of the network.	<p>Broad prohibition against sharing PPI with any person or entity without the voluntary, affirmative consent of the user with the following exceptions:</p> <ul style="list-style-type: none"> • Third Party Suppliers (“TPS”) to deliver or promote Earthlink’s services or to process payments, collection, order fulfillment and service delivery <p>Users may opt-out of receiving marketing communications from Earthlink or TPS, but no opt out for information-sharing.</p> <ul style="list-style-type: none"> • Entities that jointly promote EarthLink’s service to their customers. Again, users may opt out of receiving marketing communications from such entities or from EarthLink but no opt-out for the information sharing. • Law enforcement • Other persons or entities in connection with civil legal proceedings. 	No limitation in contract regarding sharing any information except with regard to sharing with law enforcement or in response to civil litigation.

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Is information commercialized?	Providers should not commercialize personal information without voluntary, opt-in consent.	No limitations in contract regarding commercialization of data other than opt-out provision from receiving marketing communications.	No limitations in contract regarding commercialization of data.

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Is information correlated to a specific user, device or location?	Providers should correlate information to specific users, devices, or locations only to the extent necessary to operate the network.	Yes. Login information required for access. No limitations in contract regarding the correlation of information with a specific user, with a device or with a location.	Yes. Login information required for access. No limitations in contract regarding the correlation of information with a specific user, with a device or with a location. Contract does stipulate that options for registration or login should “require minimal information from the user.” Though contract includes no definition of what constitutes “minimal.”

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Are mechanisms available to allow users to opt in or opt out of any service that collects, stores, or profiles information on the searches performed, websites visited, e-mails sent, or any other use of the Network?	Opt in should be the standard for services that exceed the basic function of providing individuals with Internet access.	No provisions in the contract for users to opt-in or opt-out of any service that collects, stores, or profiles information on the searches performed, websites visited, emails sent, or any other uses of the Network.	No provisions in the contract for users to opt-in or opt-out of any service that collects, stores, or profiles information on the searches performed, websites visited, emails sent, or any other user of the Network.

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Are mechanisms available to allow users to opt in or opt out of any service that tracks information about the user's physical location?	Providers should take all reasonable steps to enable location-based services without creating a tracking or logging mechanism that will create records of individuals' location.	Opt out option for Location Information. However, opt-out does not preclude EarthLink from using Location Information to: (i) enable a device to connect to the Network; (ii) provide other services which use Location Information from which the user has not opted out; (iii) comply with legal requests; or (iv) to protect EarthLink or its customers from a crime, fraud or network security breaches of a material nature.	No provisions in the contract regarding any mechanisms available to allow users to opt in or opt out of any service that tracks information about the user's physical location.

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Are users enumerated or assigned any unique number that can be used to track them from session to session?	Providers should take all reasonable steps to design the system to prevent enumeration from session to session. Providers should obtain a user's voluntary affirmative consent before enumerating users across sessions.	No specific provision in the contract regarding the assignment of a unique identifier, however, the inclusion of "a unique identifier" in the definition of "unique information" indicates the assignment of a unique identifier to users.	No specific provision in the contract regarding the assignment of a unique identifier, however, the inclusion of "a unique identifier" in the definition of "unique information" indicates the assignment of a unique identifier to users.

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Are Policies in Place to Respond to Legal Demands for Users' Personal Information?	Providers should only provide user's personal information in response to a warrant. Unless directly prohibited by law, providers should give the user reasonable notice of the legal demand before complying.	Broad disclosure provisions without requiring a warrant and without prior notice to user for law enforcement and national security investigations, though shall require "court ordered documentation" when allowed by law. Earthlink shall provide reasonable prior notice to user, unless prohibited by law, before disclosing information in response to a civil legal demand.	Contract requires that Google at least comply with the same requirements as Earthlink.

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Are users allowed access to all information collected about them?	Users should be able to access personal information collected and maintained by the provider and its affiliates or partners.	No provisions in the contract to allow users to access any information collected about them.	No provisions in the contract to allow users to access any information collected about them.

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Are users provided with a mechanism to review this information and to correct inaccuracies or delete information?	Providers should extend reasonable opportunities for users to correct or delete personal information collected and maintained by the provider and its affiliates or partners.	No provisions in contract to provide users with a mechanism to review any personal information and to correct inaccuracies or delete information.	No provisions in contract to provide users with a mechanism to review any personal information and to correct inaccuracies or delete information.

Green = Recommended Protections	Yellow = Limited Protections	Red = Lacks Adequate Safeguards
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ⁱ Aggregated Location Information means Location Information that (a) is not associated with an individual user's PPI; or (b) is aggregated beyond the level of the individual account.