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What's the Deal with Privacy Policies?

DISCLAIMER: This outline is a general guide. Be sure to contact an attorney if you have questions or specific issues that need to be addressed.

We often see those two links at the bottom of a website “terms of use” and “privacy policy” but what do they really mean? Privacy policies and cookie labels have become commonplace but it’s important for businesses to know if they need one, what it should include, and what laws they may need to consider. So, whether you’re a business with an intake form or sell products online it’s important to know the basic legal considerations for privacy policies. Luckily, we’re here to break them down for you!

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- 1. So...What is a Privacy Policy?** A privacy policy is a type of contract with the user of your electronic app, website, etc. It’s designed to let your users know what personal information you collect, how you use it for your company, if you sell it, and how you protect it. It also usually discloses your business’s relationship and liability in relation to third parties, such as the links, apps, and tools you include or use on your site or app. It is good practice to have the policy clearly available to users, or if they are purchasing or downloading anything from your site/app to make it so they have to click a consent box that they have read the policy before making the purchase or download.
 - 2. Who Needs a Privacy Policy?** If you collect information about users on your website, you need a privacy policy. I have people say to me “but I don’t sell anything on my site!” But if you use a site building platform like wix, squarespace, google, etc. it may be set up to have cookies or google analytics and that is information about your users. Additionally, if you have a login on your website or have people sign up for an email list then you’re collecting information. And if you are selling something on your site or app then you’re likely collecting a user’s name, email, maybe shipping address, payment processing (even if you use a third party you should tell your users that), etc. So, when in doubt, you should probably have a privacy policy!

- 3. What Does a Privacy Policy Need to Include?** As mentioned above, your privacy policy should detail the types of information you're asking users for (name, email, username, bank info, address, etc.), why you collect this data, how you store this data, if you transfer any of this data, if you collect information from children under 13, what third parties you use and your relationship with them (and usually that users should familiarize themselves with the privacy policies of those companies as well), if you use cookies, and how people can contact you with questions or to delete their data with you. This not always helps legally, but also establishes a transparent relationship with your users to make them feel informed about what you do with their data.

- 4. Laws and Contracts Governing Privacy Policies.** In addition to the general contractual benefits of a privacy policy, many countries and states have laws requiring privacy policies and their contents. For example, California and New York both have laws related to privacy and data breaches. The European Union, UK, Canada, and Australia also have comprehensive laws governing online data privacy. It's important to know that these laws often don't just apply to businesses and individuals located in those areas, but to businesses that market, or are available, to users in those areas. So, if you are a Pennsylvania based business but people in the EU can buy your products, you should check if you are required to follow the EU's data privacy collection laws. These laws often include specific terms you have to include in your privacy policy so you should always check to see what laws may be applicable to you and include the proper provisions. For example, the EU laws are why you now see all those "accept cookies?" pop-ups!

Privacy Policies are important and can have specific considerations especially if you're targeting a wide audience. This can be a good area to contact an attorney about to make sure you account for the right things and have a clear way for users to consent to the policy.