BBB NATIONAL PROGRAMS, INC.

DIGITAL ADVERTISING ACCOUNTABILITY PROGRAM

COMPANY:
Rock My World, Inc.

CHALLENGER:
Digital Advertising Accountability Program

DATE: July 8, 2020

SYNOPSIS

The Digital Advertising Alliance’s (DAA) Self-Regulatory Principles (DAA Principles)\(^1\) cover entities engaged in interest-based advertising (IBA) across websites or mobile applications (apps). Mobile app publishers\(^2\) that authorize third parties\(^3\) to collect data through their apps for use in cross-app\(^4\) IBA must provide users with notice and enhanced notice, as described in the Application of Self-Regulatory Principles to the Mobile Environment (Mobile Guidance). Before allowing third parties to collect precise location data\(^5\) for IBA, mobile app publishers must also provide users with the opportunity to consent to this collection, in addition to enhanced notice and the standard notice of this fact. DAA codes of conduct are independently enforced by the

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\(^1\) The DAA Principles include a suite of four documents related to interest-based advertising which may be read in full at http://www.aboutads.info/principles. The relevant documents are titled: Self-Regulatory Principles for Online Behavioral Advertising (OBA Principles), Self-Regulatory Principles for Multi-Site Data (MSD Principles), Application of Self-Regulatory Principles to the Mobile Environment (Mobile Guidance), and Application of the Self-Regulatory Principles of Transparency and Control to Data Used Across Devices (Cross-Device Guidance). The DAA also maintains a set of self-regulatory principles dedicated to political advertising, the Application of the Self-Regulatory Principles of Transparency & Accountability to Political Advertising, which are unrelated to this decision.

\(^2\) In the context of mobile applications, the first party is defined as the entity that owns or exercises control over the app, or its affiliates. Mobile app publishers are first parties under the Mobile Guidance. See Mobile Guidance Definition G at 7.

\(^3\) In the mobile app context, the term “third party” refers to entities that collect data for IBA through non-affiliate mobile apps, Mobile Guidance Definition N at 12 (“An entity is a Third Party to the extent that it collects Cross-App or Precise Location Data from or through a non-Affiliate’s application, or collects Personal Directory Data from a device.”).

\(^4\) Mobile Guidance Definition D at 5 (“Cross-App Data is data collected from a particular device regarding application use over time and across non-Affiliate applications. Cross-App Data does not include Precise Location Data or Personal Directory Data.”).

\(^5\) Mobile Guidance Definition K at 9 (“Precise Location Data is data obtained from a device about the physical location of the device that is sufficiently precise to locate a specific individual or device.”).
Digital Advertising Accountability Program (Accountability Program), a division of BBB National Programs, Inc.\(^6\)

**COMPANY STATUS**

Rock My World, Inc. (Rock My World) is a company that publishes the mobile app Rock My Run – Best Workout Music (Rock My Run), a music and exercise app available on the Android and iOS operating systems.\(^7\) The company is headquartered in San Diego, California.

**INQUIRY**

This case arises from the Accountability Program’s regular monitoring of mobile applications. The Accountability Program identified Rock My Run and began reviewing it for compliance with the Mobile Guidance. The Accountability Program first installed the iOS and Android versions of the app on our test devices and was able to capture and inspect data packets being transmitted from the application. Through analysis of network traffic generated from the app, we observed third parties collecting cross-app data likely for IBA. Specifically, we noted the collection of Android’s Advertising ID (AAID or IFA) and Apple’s Identifier for Advertising (IDFA).\(^8\)

i. Cross-app enhanced notice review

To assess Rock My World’s compliance with the mobile cross-app enhanced notice requirement, the Accountability Program first examined privacy policy links on Rock My Run’s listings in the Apple App and Google Play stores. These links directed us to the top of a privacy policy document\(^9\) for Rock My Run. However, these links did not function as enhanced notice links, as they did not lead directly to a compliant disclosure of third-party IBA taking place through Rock My Run. Looking further, we could not find links to a compliant IBA disclosure either during download or upon first opening the app, which are the alternative times at which enhanced notice may be provided.

The Accountability Program looked further to determine if Rock My World had provided any disclosure of third-party data collection for IBA taking place through its mobile app and examined Rock My Run’s privacy policy for such a disclosure. While we located a description of

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third-party advertising taking place through Rock My World’s products, we were unable to locate a mechanism for users to opt out of cross-app IBA occurring on mobile devices, a core requirement of the Mobile Guidance. Finally, we could not locate a statement of adherence to the DAA Principles.

Following our review, the Accountability Program sent an inquiry letter to Rock My World detailing these issues and explaining the requirements of the DAA Principles.

ii. Precise location data review

After making contact with Rock My World, the Accountability Program conducted subsequent testing of the iOS version of the Rock My Run app which revealed third-party collection of location data in the form of longitude and latitude coordinates to the 5th decimal pace. Believing this collection to be sufficiently precise and accurate to qualify as precise location data under the Mobile Guidance, the Accountability Program incorporated these issues into our review.

ISSUES RAISED

The Mobile Guidance adapts the desktop-oriented rules of the OBA Principles to the mobile world, including the core requirements to provide transparency and consumer control of IBA. In particular, when first parties permit third parties to collect data through their apps for use in IBA, they must provide enhanced notice and choice about such third-party data collection for IBA.

i. Cross-app enhanced notice

According to section III.A.(3) of the Mobile Guidance, first parties that affirmatively authorize a third party to collect or use cross-app data for IBA must provide a clear, meaningful, and prominent link to a disclosure that (1) describes the third-party collection, (2) points to a choice mechanism/setting or lists all third parties with links to their opt outs, and (3) contains a statement of adherence to the DAA Principles. The enhanced notice link must be provided prior to download (e.g., in the app store on the application’s page), during download, on first opening of the app, or at the time cross-app data is first collected, and in the application’s settings or any privacy policy.

10 Id.
11 Id. The Accountability Program notes that Rock My World stated in its privacy policy that “You can disable cookies on your computer by indicating this in the preferences or options menus in your browser, but if you do you may not be able to access all areas or services at this site.” We note that this language is not sufficient for providing an opt-out mechanism for IBA occurring through mobile apps.
12 Mobile Guidance Definition K at 9 (“Precise Location Data is data obtained from a device about the physical location of the device that is sufficiently precise to locate a specific individual or device.”).
14 Id.
15 Id. We note that where the third party is unable to provide enhanced notice and choice in an app, the first party should work with the third party to ensure that such notice and choice are provided. See Id. § III.B.(1) at 18-19. See also Digital Advertising Accountability Program, Compliance Warning, http://www.asrcreviews.org/wp-
These enhanced notice requirements make information about privacy more accessible to users so that they can make an informed decision about whether to participate in data collection and use for IBA. The enhanced notice link must go directly to the place where the app explains its IBA practices. Moreover, the link must be provided at or before the moment a user’s engagement with the app results in third-party data collection for IBA. This process provides a conspicuous, accessible and meaningful disclosure to the consumer at the time it is most useful to them. As such it is a dramatic improvement on the past practice of simply placing the information in an often-dense privacy policy. It also requires that the company’s disclosure explain to consumers how they can opt out of IBA, including providing links to easy-to-use opt-out mechanisms like the DAA’s AppChoices tool.

ii. Precise location data

Notice requirement

According to section IV.A.(1) of the Mobile Guidance, first parties must provide clear, meaningful, and prominent notice when they affirmatively authorize third parties to collect precise location data for use in IBA from or through their application(s). This notice must be placed on the company’s website or be accessible through its app(s) and provide clear descriptions of: (1) the fact that precise location data is transferred to or collected by any third party, (2) instructions for accessing and using a tool for providing or withdrawing consent, (3) and the fact that the first party adheres to the DAA Principles.

Enhanced notice requirement

In addition to the general notice requirement under section IV.A.(1) of the Mobile Guidance, first parties must provide enhanced notice as discussed in section IV.A.(3). This enhanced notice must be a clear, meaningful, and prominent notice of the fact that the first party authorizes third-party collection of precise location data (or transfers such data to third parties). The first party must also provide a link within the enhanced notice to the disclosure required under section IV.A.(1) of the Mobile Guidance. This notice and link can be provided during the process of downloading the application, at the time the application is opened, or at the time such data is collected and in the application’s settings or any privacy policy. Companies may use the

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17 Id. at 21-22.
18 Id. at 23-24.
19 Id. § IV.A.(3)(b) at 24.
20 Id. Commentary to § IV.A.(3) at 24 (“A First Party can satisfy the requirement to provide download notice under Section IV.A.3.a by participating in a notice mechanism that satisfies this Principle and is offered by an application platform or an application market provider that makes the application available for download.”).
mechanisms provided by the application store to fulfill this notice requirement.\textsuperscript{21} A company may also supply its own method of enhanced notice as long as it is as clear, meaningful, and prominent as the notice required by § IV.A.(3) of the Mobile Guidance.\textsuperscript{22}

\textit{Consent requirement}

Further, under section IV.B.(1), first parties should obtain consent to allow third parties to collect precise location data for IBA purposes prior to collection.\textsuperscript{23} This consent tool should be easy to use and should apply to the application and device from which the consent is provided.\textsuperscript{24} The first party is also required to provide an easy-to-use tool for withdrawing consent at any time.\textsuperscript{25} Under the Mobile Guidance, valid consent requires an action in response to a “clear, meaningful, and prominent notice.”\textsuperscript{26} A company can satisfy this principle by allowing consumers to provide or withdraw consent as a part of the process of downloading and installing an application or through an application’s settings.\textsuperscript{27} A company may also use permissions tools provided by an application platform or application market provider to satisfy this requirement.\textsuperscript{28}

\textbf{COMPANY RESPONSE AND ANALYSIS}

After the Accountability Program contacted Rock My World, we encountered some initial difficulty maintaining a line of communication with the company. After the line of communication was firmly established, Rock My World conducted a comprehensive review of its compliance with the DAA Principles in order to identify any areas in its compliance protocols that needed strengthening. The company worked diligently and consulted with the Accountability Program on its plan to come into compliance with the DAA Principles, as explained below.

\begin{enumerate}
\item Compliance with cross-app data collection requirements
\end{enumerate}

Rock My World’s authorization of third-party collection of unique identifiers for IBA in its mobile app triggered compliance responsibilities under the first-party cross-app provisions of the Mobile Guidance. Consequently, Rock My World should have provided an enhanced notice link to a compliant cross-app IBA disclosure. However, at the time of our inquiry Rock My World provided no enhanced notice link and a disclosure that did not contain a mobile opt-out mechanism.

\textsuperscript{21} \textit{Mobile Guidance} at 24–25. We note that in order to be compliant, any application store notice must meet the requirements of the Mobile Guidance, including notice of transfer to third parties.
\textsuperscript{22} \textit{Id.} at 23.
\textsuperscript{23} \textit{Id.} at 25-26.
\textsuperscript{24} \textit{Id.} § IV.B.(1)(a) at 25.
\textsuperscript{25} \textit{Id.} § IV.B.(1)(b) at 26.
\textsuperscript{26} \textit{Mobile Guidance} § I.B. at 4.
\textsuperscript{27} \textit{Id.} Commentary to § IV.B.(1) at 27.
\textsuperscript{28} \textit{Id.}
To resolve its issues under the enhanced notice provisions of the Mobile Guidance, Rock My World took a number of steps. First, the company elected to employ the “jump link” method of providing cross-app enhanced notice under the Mobile Guidance.

As detailed above, the cross-app provisions of the Mobile Guidance prescribe particular times and locations where consumers can receive enhanced notice that directs them to a compliant IBA disclosure.29 In practice, a common means for providing enhanced notice before collection occurs is by placing a link on the app’s listing in an app store. However, app stores may allow only a finite set of links dedicated to specific resources, such as company websites and privacy policies. The flexibility of the Mobile Guidance allows app publishers to use the dedicated privacy policy link as its enhanced notice link where necessary.30 To do so, app publishers must place an IBA disclosure or a link (usually a “jump link” to a later portion of the same document) to a disclosure at the top of the privacy policy linked from the app store.31 This ensures that when a user taps on a privacy policy link in an app store listing, they are directed immediately to relevant information about IBA and an opt-out mechanism.

To achieve compliance by this method, Rock My World provided a jump link that directed users to a section of its updated privacy policy entitled “Interest-Based Advertising.”32 This new disclosure includes a description of third-party IBA activity occurring through the Rock My World app, a link to the DAA’s AppChoices app, and a statement of adherence to the DAA Principles. This disclosure also includes a link to resources on accessing OS-level settings for opting out of mobile cross-app IBA. The Accountability Program found that these actions resolved Rock My World’s compliance issues under the cross-app provisions of the Mobile Guidance.

iii. Compliance with the precise location data provisions

The first DAA Principles recognized the distinction between the use of standard data types for IBA versus more sensitive data like financial or medical information.33 The Mobile Guidance preserved those norms of sensitivity and recognized that other, mobile-specific data types may also bear heightened scrutiny. The requirements for the collection and use of precise location data for IBA were crafted by industry in recognition of the sensitivity surrounding these particular categories of data.34

30 Id. Commentary at § III.A.(3) at 18 (“Where a Third Party elects to satisfy Section III.A.2.ii.1 or a First Party elects to satisfy Section III.A.3.a by providing a link prior to installation through an application market that does not permit active links, the entity satisfies this Principle if it provides an active link to a privacy policy that contains the disclosure described in Section III.A.1 and directs consumers to the relevant section of the privacy policy where the disclosure is located.”).
31 Id. (allowing a jump link near the top of a privacy policy to direct consumers to an IBA disclosure where app stores do not allow active enhanced notice links).
33 OBA Principles § VI. at 16–17.
34 In re: Spinrilla (61-2016), May 4, 2016 (“As mobile apps are technically markedly different from websites, entities that engage in IBA through apps require specific guidance for compliance implementation that takes into account the technical issues of providing transparency and choice in the mobile world. The Mobile Guidance also
During its internal compliance review, Rock My World identified the third-party software development kit that caused the collection of precise location data and removed it. After being informed of this action, the Accountability Program then conducted subsequent testing of the iOS version of Rock My World app and found that there was no longer any existing collection of precise location data for IBA purposes. Noting that since there were no longer any existing IBA practices that triggered the precise location data requirements of the Mobile Guidance, the Accountability Program concluded that this issue was resolved.

CONCLUSION

Today’s case continues a long line of cases outlining the requirements for app and website publishers to provide users with enhanced notice about third-party data collection occurring on their properties. First parties must provide a timely, up-front notice to users about this background data collection. When first parties authorize third parties to collection data through their mobile app, they must provide a mobile opt-out mechanism with an accompanying description of how to effectuate it.

Here, Rock My World demonstrated its commitment to serving its customers by modifying its privacy disclosures to provide enhanced notice of mobile data collection for IBA and a mobile-specific opt-out tool. Consumers will now have the benefits of transparency and choice when engaging with the company’s exercise app.

The Accountability Program applauds Rock My World for its commitment to consumer privacy and industry self-regulation.

COMPANY’S STATEMENT

Following the receipt of the Accountability Program’s letter, Rock My World began an in-depth evaluation regarding its consumer data practices. Rock My World has made the determination that it is in the best interests of the company and its consumers to adhere to the DAA Principles. In collaboration with the Accountability Program, Rock My World has updated its consumer data practices to be in compliance with the DAA Principles. Rock My World has the utmost respect for the work done by the Accountability Program in their pursuit of protecting consumer data. Rock My World is pleased to say that, with the help of the Accountability Program, we are compliant with DAA Principles, further demonstrating our commitment to our customers. Rock My World emphatically supports these principles and is committed to providing transparency and choice for its customers. Rock My World shares the Accountability Program’s principles and sense of responsibility in ensuring that consumer data is used in a responsible manner.

DISPOSITION OF DECISION

Practices voluntarily corrected.

takes account of apps’ and websites’ abilities to collect both precise location and user directory data, information that consumers feel is more sensitive than typical cross-site or cross-app data.”).
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