

BBB NATIONAL PROGRAMS

DIGITAL ADVERTISING ACCOUNTABILITY PROGRAM

COMPANY:

Pinsight Media+ Inc.

CHALLENGER:

Digital Advertising Accountability Program

FORMAL REVIEW

Case Number: 118-2020

DECISION

DATE: September 10, 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). In accordance with the *Application of Self-Regulatory Principles to the Mobile Environment* (Mobile Guidance), mobile app publishers² that allow third parties³ to collect

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: 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 is 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 (“A First Party is the entity that is the owner of an application, or has Control over the application, with which the consumer interacts, and its Affiliates.”). In the context of websites, website operators are first parties. *OBA Principles* Definition F at 10 (“A First Party is the entity that is the owner of the Web site or has Control over the Web site with which the consumer interacts and its Affiliates.”)

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.”). See also *OBA Principles* Definition J at 11 (“An entity is a Third Party to the extent that it engages in Online Behavioral Advertising on a non-Affiliate’s Web site.”).

precise location data⁴ for IBA must also provide users with the opportunity to consent to this collection, in addition to enhanced notice and the standard notice of this fact. Further, mobile app publishers that authorize third parties to collect cross-app⁵ data through their apps for use in IBA must provide users with notice and enhanced notice. Similarly, any operator of a website that allows third parties to collect visitors' web browsing data for IBA must provide visitors with notice and enhanced notice as prescribed in the *Self-Regulatory Principles for Online Behavioral Advertising* (OBA Principles). DAA codes of conduct are independently enforced by the Digital Advertising Accountability Program (Accountability Program), a division of BBB National Programs.⁶

COMPANY STATUS

Pinsight Media+ Inc. (Pinsight) is an app publisher based in Kansas City, Missouri. Pinsight publishes apps on the Android and iOS operating systems, including 1Weather: Widget Forecast Radar (1Weather), BaconReader for Reddit (BaconReader), and TweetCaster for Twitter (TweetCaster). The Google Play Store lists 1Weather as having 50,000,000 installations.

INQUIRY

This case arises from the Accountability Program's continuing monitoring and enforcement efforts in the mobile app space.⁷ As part of these efforts, the Accountability Program examined Pinsight's mobile app offerings under its OneLouder Apps developer and publisher, which include 1Weather, BaconReader, and TweetCaster, available on the Android and iOS operating systems (collectively, the Apps).⁸ Below, we describe our review in detail.

⁴ *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.").

⁵ *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.").

⁶ See generally, BBB National Programs, *Digital Advertising Accountability Program*, <https://www.bbbprograms.org/programs/all-programs/daap/> (last visited September 2, 2020).

⁷ The Accountability Program notes that this decision covers only Pinsight's practices as a first party under the DAA Principles; Pinsight's other business practices are beyond the scope of this decision. Accountability Program, *Digital Advertising Accountability Program Procedures* (Oct. 2019), <https://bbbnp-bbbp-stf-use1-01.s3.amazonaws.com/docs/default-source/bbb-national-programs/procedures/daap-procedures-rev-oct-2019.pdf> § 4.C.1. at 6 ("The Accountability Program shall have sole and exclusive authority and discretion to select, accept or reject matters with respect to which it will conduct reviews based upon criteria that include, but are not limited to, the following: the number of consumers potentially affected by the alleged violation of the Principles, the significance of the issues being raised, the availability of evidence, staff resources of the Accountability Program, and the need to resolve pending matters expeditiously.").

⁸ Google Play Store, *1Weather: Widget Forecast Radar*, https://play.google.com/store/apps/details?id=com.handmark.expressweather&hl=en_US (last visited Aug. 25, 2020). Apple App Store, *1Weather: Forecast and Radar*, <https://apps.apple.com/us/app/1weather-forecast-and-radar/id1044809694> (last visited Aug. 25, 2020). Google Play Store, *BaconReader for Reddit*, https://play.google.com/store/apps/details?id=com.onelouder.baconreader&hl=en_US (last visited Aug. 25, 2020). Apple App Store, *BaconReader for Reddit*, <https://apps.apple.com/us/app/baconreader-for-reddit/id725730936> (last visited Aug. 25, 2020). Google Play Store, *TweetCaster for Twitter*, https://play.google.com/store/apps/details?id=com.handmark.tweetcaster&hl=en_US (last visited Aug. 25, 2020). Apple App Store, *TweetCaster for Twitter*, <https://apps.apple.com/us/app/tweetcaster-for-twitter/id420792544> (last visited Aug. 25, 2020). The Accountability Program notes that the majority of the Apps covered by this decision are

I. Mobile Guidance review

i. Precise location data review

As part of our investigation, the Accountability Program downloaded and installed the Apps on our test devices. Using our testing equipment, we were able to capture and inspect data packets being transmitted from the Apps. Through analysis of network traffic generated from the Apps, we observed at least one third party collecting location data in the form of geolocation coordinates from the 1Weather app, likely for IBA. This data was to the 7th decimal place on the Android version of the app and the 6th decimal place on the iOS version of the app. In both cases, these coordinates pointed to locations within 20 meters of our testing devices. Believing this data to be sufficiently accurate and precise to qualify as precise location data⁹ under the Mobile Guidance, we proceeded to assess the 1Weather app for its compliance with the Mobile Guidance's precise location data requirements for enhanced notice and opt-in control.¹⁰

While testing both versions of the 1Weather app, the Accountability Program was unable to locate any enhanced notice disclosure or link in any of the compliant locations. We noted during testing that standard permissions tools requested access to the device's location.¹¹ However, this type of permissions tool is not sufficient for providing enhanced notice as it does not specify *that third parties* may collect precise location data from users *for IBA purposes*, raising an issue under this provision of the Mobile Guidance. Further, during our testing of the 1Weather app, we could not locate any mechanism requesting that a user consent to the collection of her precise location for *third-party* IBA purposes.

The Accountability Program continued its examination to determine whether Pinsight had disclosed the third-party collection of precise location data in accordance with its obligations under the Mobile Guidance. We proceeded to review 1Weather's privacy policy for such a disclosure.¹² There, we noted that the 1Weather privacy policy indicated the collection and sharing of precise location data with third parties and provided opt-out mechanisms. However, we were unable to locate a statement of adherence to the DAA Principles during our review.

described in the app stores as being offered by the entity OneLouder Apps. However, the Accountability Program understands that Pinsight owns or controls the development team for the entity OneLouder Apps. *See generally* Pinsight, *OneLouder*, <https://pinsightmedia.com/solutions/onelouder> (last visited Aug. 25, 2020). Further, while we note that the iOS version of the TweetCaster app appears to be offered by the entity Handmark, Inc. we understand through our dialogue with Pinsight that the company controls this app.

⁹ *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.”).

¹⁰ *Id.* § IV at 21-30. *See generally In re: Finish Line (86-2018)*, Sep. 26, 2018, *see also In re: Spinrilla (61-2016)*, May 4, 2016. All prior cases cited herein can be found at <https://bbbprograms.org/programs/daap/accountability-program-decisions-and-guidance>.

¹¹ We note that during testing of the iOS version of the 1Weather app the permissions tool indicated “1Weather uses your location to provide you with weather data and alerts.” We could find no other language paired with this permissions tool during testing that described the third-party collection of precise location data for IBA.

¹² Pinsight, *Privacy Policy* (Aug. 2019), <http://1weatherapp.com/privacy/> [perma: <https://perma.cc/ZG3X-VJ8R>].

ii. Cross-app data collection review

During our testing of the Apps, we also observed the third-party collection of cross-app¹³ data, likely for IBA. Specifically, we noted the collection of Android’s Advertising ID (AAID or IFA) and Apple’s Identifier for Advertisers occurring in all the Apps.¹⁴ This prompted us to examine the Apps for compliance with the cross-app provisions of the Mobile Guidance.

While testing the Apps, the Accountability Program was unable to find an enhanced notice link at any of the times or locations required by the Mobile Guidance. While the Apps provided links to the top of privacy policy documents¹⁵ within their listings on the Apple App and Google Play Stores, these links did not function as enhanced notice links. This is because the links did not take users directly to a disclosure that described the third-party IBA activity the Apps allow.¹⁶ Looking further, we found no other links that served as enhanced notice under the Mobile Guidance.¹⁷

The Accountability Program looked further to determine if Pinsight had provided any disclosure of third-party cross-app data collection for IBA taking place through its Apps and examined the Apps’ privacy policies for such a disclosure. In all of the privacy policies linked from the Apps’ listings in the app stores, we observed a description of third-party cross-app IBA taking place through the company’s Apps. However, the privacy policies offered different opt-out tool descriptions to users, some of which were not fully compliant with the DAA Principles, as they lacked clear instructions or described browser-based opt outs that could not help users opt out of IBA occurring through Pinsight’s apps.¹⁸

¹³ *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.”).

¹⁴ IAB Mobile Marketing Center of Excellence, *Mobile Identity Guide for Marketers*, June 2017, at 4, <https://www.iab.com/wp-content/uploads/2017/06/Mobile-Identity-Guide-for-Marketers-Report.pdf> (“The most prevalent Advertising Identifiers today offering the scale needed for marketing purposes are the ... IDFA [and] AAID.”).

¹⁵ Pinsight, *Privacy Policy* (Aug. 2019), <http://1weatherapp.com/privacy/> [perma: <https://perma.cc/ZG3X-VJ8R>]. Pinsight, *OneLouder Privacy Policy*, <https://pinsightmedia.com/solutions/onelouder/privacy> (last visited Aug. 27, 2020) [perma: <https://perma.cc/4UAN-ZP8B>]. Pinsight, *Privacy Practices for the Application* (Nov. 2018), <http://baconreader.com/privacy/> [perma: <https://perma.cc/ZCU9-L7J7>]. Pinsight, *Privacy Practices for the Application* (Nov. 2018), <https://tweetcaster.com/privacy/> [perma: <https://perma.cc/LA62-LESE>].

¹⁶ *Mobile Guidance* Commentary to § III.A.(3) at 18 (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).

¹⁷ While the Accountability Program noted that the 1Weather app and the Android version of the TweetCaster app provided an “AdChoices” link to users in their settings menus, at the time of our review these links directed users to the top the apps’ respective privacy policy documents, as opposed to an IBA disclosure.

¹⁸ The Accountability Program notes that at the time of its review the majority of Pinsight’s Apps had accompanying privacy policies which included some references to opting out of mobile IBA through device-level settings, but not clear instructions on accessing these settings. (“To opt out of the use of information collected by our advertising partners across different applications to serve ads that are targeted to your interests, please consult the settings available on your device (“Opt out of interest-based ads” on your Android device or “Limit Ad Tracking” on your iPhone or iPad).”). Pinsight, *Privacy Policy* (Aug. 2019), <http://1weatherapp.com/privacy/> [perma: <https://perma.cc/ZG3X-VJ8R>]. The Accountability Program also notes that one app’s accompanying privacy policy lacked a description of any mobile IBA opt-out mechanism, referring only to a browser-based opt-out tool. As a result of these findings, the Accountability Program incorporated these issues into our review.

Finally, as discussed previously, the Accountability Program could not locate a statement of adherence to the DAA Principles during its review.

II. OBA Principles review

The Accountability Program went on to examine Pinsight for its compliance with the web-based OBA Principles, discussed below.

When the Accountability Program visited Pinsight’s website (<https://pinsightmedia.com>) we identified at least one third-party entity engaged in data collection for IBA. This prompted us to review the website for compliance with section II.B. of the OBA Principles, which covers the responsibilities of website publishers when they authorize IBA on their sites.

The Accountability Program could not locate an enhanced notice link on the Pinsight website which would direct users to a disclosure about IBA. We identified a privacy policy link that took us to the top of Pinsight’s privacy policy for its website, which included a description of third-party IBA occurring on the website and a link to www.aboutads.info/choices.¹⁹ However, this privacy policy link did not constitute enhanced notice because it was not a link that was separate and distinct from a privacy policy link and because it did not take users directly to a disclosure about IBA. Moreover, we could not locate a statement of adherence to the DAA Principles during our review.

I. Mobile Guidance

i. 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).²⁰ 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.²¹

¹⁹ Pinsight, *Privacy Policy*, <https://pinsightmedia.com/privacy> (last visited August 27, 2020) [perma: <https://perma.cc/JF6T-Z5TD>] (“We may allow others to serve advertisements on our behalf across the Internet and to provide analytics services. These entities may use cookies, web beacons and other technologies to collect information about your use of the Services and other websites, including your IP address, web browser, pages viewed, time spent on pages, links clicked and conversion information. This information may be used by Pinsight and others to, among other things, analyze and track data, determine the popularity of certain content, deliver advertising and content targeted to your interests on our Services and other websites and better understand your online activity. For more information about Interest-based ads, or to opt out of having your web browsing information used for behavioral advertising purposes, please visit www.aboutads.info/choices.”).

²⁰ *Mobile Guidance* at 21.

²¹ *Id.* at 21-22.

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).²² 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.²³ 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.²⁴ Companies may use the mechanisms provided by the application store to fulfill this notice requirement.²⁵ 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.²⁶

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.²⁷ This consent tool should be easy to use and should apply to the application and device from which the consent is provided.²⁸ The first party is also required to provide an easy-to-use tool for withdrawing consent at any time.²⁹ Under the Mobile Guidance, valid consent requires an action in response to a “clear, meaningful, and prominent notice.”³⁰ 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.³¹ A company may also use permissions tools provided by an application platform or application market provider to satisfy this requirement.³²

ii. First-party cross-app enhanced notice link requirement

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.³³ The enhanced notice link must be provided prior

²² *Id.* at 23-24.

²³ *Id.* § IV.A.(3)(b) at 24.

²⁴ *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.”)

²⁵ *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.

²⁶ *Id.* at 23.

²⁷ *Id.* at 25-26.

²⁸ *Id.* § IV.B.(1)(a) at 25.

²⁹ *Id.* § IV.B.(1)(b) at 26.

³⁰ *Mobile Guidance* § I.B. at 4.

³¹ *Id.* Commentary to § IV.B.(1) at 27.

³² *Id.*

³³ *Id.*

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.³⁴

These enhanced notice requirements make information about privacy more accessible to users so 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 replaces the old-fashioned practice of burying information about IBA—if provided at all—somewhere in the privacy policy for the consumer to unearth. 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.

³⁴ *Id.*

II. OBA Principles

First-party website publisher duties under the OBA Principles are set out in section II.B. According to this section, if first parties allow third parties to collect visitors' browsing data for use in IBA on their websites, or if they transfer such data to third parties for tailoring ads on non-affiliate websites, they must provide consumers with appropriate transparency and an opportunity to exercise control over IBA.³⁵ A first party must include a disclosure somewhere on its website that describes the IBA activity occurring there.³⁶ This disclosure must contain either a link to an industry-developed consumer choice page (such as <http://aboutads.info/choices>) or a list of every third party conducting IBA activity on the first-party website.³⁷ Additionally, a first party must state its adherence to the DAA Principles on its website.³⁸

Like the Mobile Guidance, the OBA Principles require first parties to provide consumers with real-time enhanced notice when third parties are collecting or using data for IBA on a first party's website. This real-time indicator must be in the form of a "clear, meaningful, and prominent" link that directs consumers to the first party's IBA disclosure, not merely to the top of a privacy policy.³⁹ In addition, this link must be distinct from the company's privacy policy link and must appear on every page where data collection or use for IBA occurs on the first party's website.⁴⁰ The link may be provided directly by the first party or by one of the third parties active on its website.⁴¹

COMPANY RESPONSE AND ANALYSIS

In response to the Accountability Program's inquiry letter, Pinsight immediately conducted a thorough review of its compliance with the DAA Principles. The company consulted with the Accountability Program on its plan to come into compliance with the DAA Principles, as explained below.

³⁵ *OBA Principles* § II.B. at 13–14.

³⁶ *Id.*

³⁷ *Id.* We note that when first parties choose to list third parties individually, the Commentary to the Consumer Control Principle instructs companies that "choice should be available from the Third Party(s) disclosure linked from the page where the Third Party is individually listed." *OBA Principles* Commentary at 35.

³⁸ *OBA Principles* § II.B. at 13–14. *See, e.g., In re: PVH Corp. (106-2019)*, Oct. 28, 2019; *In re: Johnson & Johnson Consumer Inc. (105-2019)*, Oct. 28, 2019; *In re: Dine Brands Global, Inc. (100-2019)*, Sep. 5, 2019.

³⁹ *OBA Principles* Commentary at 32 ("The Principles also state that the Web sites at which Third Parties are collecting data for Online Behavioral Advertising purposes should include a new clear, meaningful, and prominent link on their Web sites when Third Parties do not provide the notice described in II.A.(2)(a). This would link from the Web page where data is collected to specific language in a disclosure. If the disclosure language is in the privacy notice, the link should go directly to the relevant section of the privacy policy where the disclosure is located and not just generally to the privacy policy.").

⁴⁰ *Id.* at 31.

⁴¹ *See also* Accountability Program, *First Party Enhanced Notice Compliance Warning* CW-01-2013 at 3. https://bbbnp-bbbp-stf-use1-01.s3.amazonaws.com/docs/default-source/accountability-program/v.-accountability-program-guidance/accountability-program-first-party-enhanced-notice-compliance-warning-cw-01-2013.pdf?sfvrsn=25e3af96_2.

I. Mobile Guidance

i. Precise location data

The OBA Principles recognizes the distinction between standard data types for IBA versus more sensitive data like financial or medical information.⁴² The Mobile Guidance reserves these notions of sensitivity and recognizes that other, mobile-specific data types may also bear heightened scrutiny. Consequently, the Mobile Guidance requires that consumers provide consent when first parties authorize the third-party collection of precise location data for IBA purposes. This consent is in addition to the standard notice and enhanced notice that must be given to consumers regarding precise location information. These requirements were crafted by industry in recognition of the sensitivity surrounding this category of data.⁴³

The authorization of the third-party collection of location data sufficient to identify a particular user or device for IBA purposes in 1Weather app triggered Pinsight's obligations to provide notice and enhanced notice to users about this collection and to get their consent prior to allowing it. During discussions with the company, the Accountability Program underscored that the system-level permissions tools we observed regarding collecting the user's location would not be sufficient for providing a consent mechanism to users for the third-party collection of precise location data for IBA. This is because the tools did not include any language disclosing that third parties would receive precise location data through the 1Weather app for IBA purposes.

Acknowledging our findings and the imperatives of the Mobile Guidance, Pinsight worked with the Accountability Program to take the following actions to come into compliance with the precise location data provisions:

Enhanced notice implementation

To meet the enhanced notice requirement, Pinsight added a full-screen dialog to the Android version of the 1Weather app that launches upon first opening the app. This disclosure indicates that Pinsight may share precise location data with third-party partners for IBA purposes and includes a link to a disclosure in the 1Weather privacy policy covering Pinsight's first-party precise location data practices. This disclosure points to a jump link that takes users to a section of the 1Weather privacy policy which has instructions on modifying permissions settings for location data. The Accountability Program found that these implementations resolved Pinsight's obligation to provide enhanced notice for the third-party collection of precise location data for IBA.

⁴² *OBA Principles* § VI.at 16-17.

⁴³ *In re: Spinrilla (61-2016)*, May 4, 2016, <https://www.bbb.org/globalassets/local-bbbs/council113/media/behavioral-advertising/spinrilla-decision.pdf> (“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 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.”).

Consent for collection of precise location data

As a result of Pinsight’s actions, the full-screen location dialog now appears prior to the standard Android location permissions tool. The Accountability Program found that because Pinsight provided a compliant precise location data enhanced notice, users of the Android version of 1Weather are now provided with the opportunity to provide consent for the collection of their location data for IBA purposes.

Notice

Pinsight updated its privacy policy to include a statement of adherence to the DAA Principles.⁴⁴ After identifying this change, the Accountability Program found that the company now provides users with a fully compliant precise location data notice.

Precise location data on iOS version of the 1Weather app

Finally, Pinsight disabled the third-party collection of precise location data in the iOS version of the 1Weather app. After conducting subsequent testing, the Accountability Program confirmed these changes to the app.

Taken together, the Accountability Program found that the above actions resolved Pinsight’s obligations under the precise location data provisions of the Mobile Guidance.

ii. Cross-app data

Pinsight’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.

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.⁴⁵ 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.⁴⁶ 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

⁴⁴ Pinsight, *1Weather Privacy Policy* (Dec. 2019), <http://1weatherapp.com/privacy/>.

⁴⁵ *Mobile Guidance* § III.A.(3) at 17. See also *In re: Sega (65-2016)*, July 14, 2016; *In re: Spinrilla (61-2016)*, May 4, 2016; *In re: Bearbit Studios (62-2016)*, May 4, 2016; *In re: Top Free Games (63-2016)*, May 4, 2016.

⁴⁶ *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.”).

of the privacy policy linked from the app store.⁴⁷ 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.

In this case, at the time of the Accountability Program's review, Pinsight did not provide any mobile enhanced notice that directed users to its IBA disclosures. Further, while Pinsight had provided mostly-complete IBA disclosures across its relevant app products, many of these disclosures referenced OS-level opt-out settings without providing full instructions on how to access these tools. Pinsight's privacy policies also did not include statements of adherence to the DAA Principles.

To resolve its issues under the first-party cross-app provisions, Pinsight ensured that enhanced notice was provided to users by adding jump links to the top of its privacy policies taking users to the appropriate IBA disclosures.⁴⁸ The company also revised the privacy policies across all of its Apps to provide compliant IBAs disclosures that include instructions on operating OS-level settings for opting out of IBA, links to the DAA's AppChoices app, and statements of adherence to the DAA Principles. The Accountability Program found that these steps resolved the company's issues under the first-party cross-app provisions of the Mobile Guidance.

II. OBA Principles

During its compliance review, Pinsight disabled the third-party collection of data for IBA on its website. As the Accountability Program found that there were no longer any existing practices that triggered the first-party requirements of the OBA Principles, it found that this issue was resolved.

CONCLUSION

This year, the Accountability Program will enter its 6th year of enforcement of the Mobile Guidance. Today's case continues the Accountability Program's efforts to ensure that when app publishers authorize the third-party collection of precise location data for IBA purposes, users are provided with enhanced notice of this collection and the opportunity to consent in accordance with the provisions of the DAA Principles that cover this sensitive data. In today's mobile app economy, companies can no longer merely rely on permissions tools or full screen prompts that fail to mention the third-party collection of location data, especially when they own or control popular apps that provide a commonplace function to users.

Here, Pinsight worked diligently with the Accountability Program to meet its obligations under the Mobile Guidance, providing enhanced notice links and disclosures that point users to the right places to learn about the collection of their location and cross-app data for IBA. The

⁴⁷ *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).

⁴⁸ Pinsight, *1Weather Privacy Policy* (Dec. 2019), <http://1weatherapp.com/privacy/>. Pinsight, *TweetCaster Privacy Policy* (Dec. 2019), <http://tweetcaster.com/privacy>. Pinsight, *BaconReader Privacy Policy* (Dec. 2019), <http://baconreader.com/privacy>.

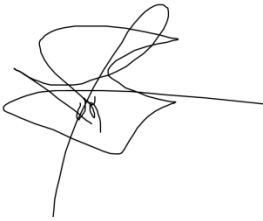
Accountability Program applauds the company's commitment to end user privacy and industry self-regulation.

COMPANY'S STATEMENT

Pinsight, and its parent company InMobi, believe strongly in the importance of consumer privacy and have invested significant effort and resources into developing a comprehensive, robust global privacy compliance program. Our voluntary participation in the Digital Advertising Accountability Program reflects our commitment to follow applicable legal and regulatory requirements and industry best practices for data privacy in web and mobile advertising. We recognize that transparency regarding our privacy practices is a critical component of our program and is essential to building trust with consumers and providing these consumers choice about the collection and use of their data for interest-based ads. We appreciate the Accountability Program's assistance in identifying these improvement opportunities and are grateful for their cooperation throughout this review. We will strive to uphold our commitments to the self-regulatory principles and comply with these and other privacy obligations, which we recognize are critical to the preservation of consumer privacy in a fast-moving and complex digital world.

DISPOSITION OF DECISION

Practices voluntarily corrected.

A handwritten signature in black ink, appearing to read 'Jon M. Brescia', with a long horizontal line extending to the right.

Jon M. Brescia
Vice President
Digital Advertising Accountability Program