

Online Interest-Based Advertising Accountability Program Formal Review: 01.2011

ONLINE INTEREST-BASED ADVERTISING ACCOUNTABILITY PROGRAM

FORMAL REVIEW

Case Number: 01-2011

COMPANY:

QuinStreet, Inc.

CHALLENGER:

Online Interest-Based
Advertising Accountability Program

DECISION DATE:

November 8, 2011

SYNOPSIS

A company has responsibility to ensure that the mechanisms it employs to fulfill the Transparency and Consumer Control Principles are fully functional.

COMPANY STATUS

QuinStreet, Inc. (QuinStreet or the company) is a vertical marketing and online media company. QuinStreet engages in the collection and use of data for online behavioral advertising (OBA) purposes¹ as defined in the cross-industry Self-Regulatory Principles for Online Behavioral Advertising (Principles):

Online Behavioral Advertising means the collection of data from a particular computer or device regarding Web viewing behaviors over time and across non-Affiliate Web sites for the purpose of using such data to predict user preferences or interests to deliver advertising to that computer or device based on the preferences or interests inferred from such Web viewing behaviors. (Principles at 9-10, Definition G.).

OBA PRACTICE AT ISSUE

One of the cornerstones of the Principles is “consumer control.” (Principles at 14, Principle III.). A third party must provide the consumer with an easy-to-use mechanism that allows the consumer to exercise choice regarding the collection and use of data from his or her device for OBA purposes. The practice at issue is whether the company was providing consumers with choice as required under the Consumer Control Principle.

The obligation of a third party to enable a consumer to exercise choice is explained in the Principles as follows:

A Third Party should provide consumers with the ability to exercise choice with

respect to the collection and use of data for Online Behavioral Advertising purposes or the transfer of such data to a non-Affiliate for such purpose. Such choice should be available from the notice described in II.A.(2)(a); from the industry-developed Web page(s) as set forth in II.A.2.(b)(i); or from the Third Party's disclosure linked to from the page where the Third Party is individually listed as set forth in II.A.2.(b)(ii). (Principles at 14, III.A.).

BASIS OF INQUIRY

On August 16, 2011, the Online Interest-Based Advertising Accountability Program (Accountability Program) tested the functionality of the consumer choice mechanism provided in the company's privacy policy using five Internet browsers: Chrome, Firefox, Internet Explorer, Opera and Safari. When using the Firefox browser, the Accountability Program found that the "OPT OUT NOW" button was missing, therefore, a consumer could not initiate an opt-out request². Tests conducted with the Chrome, Internet Explorer and Opera browsers revealed that the "OPT OUT NOW" button appeared as a broken image. While the opt-out requests using these browsers were processed successfully, the Accountability Program believes the presence of a broken image could confuse consumers, thus rendering the mechanism difficult to use. Tests using the Safari browser found both the "OPT OUT NOW" button to be clearly visible and the opt-out request processed successfully. Repeated visits to the company's privacy policy using each browser continued to reveal the same problems, demonstrating that the problems were persistent and were not corrected by the company during the month that testing was repeated.

COMPANY'S POSITION

In response to the Accountability Program's inquiry, the company acknowledged that the link to the consumer choice mechanism in its privacy policy was not available when using the Firefox browser and not properly rendered on the page when using the Chrome, Internet Explorer and Opera browsers. The company stated that the problem with their opt-out button was an error on their part and that they did not intend to make it incompatible with the aforementioned browsers. The company stated that upon receipt of the notice of inquiry, it took immediate steps to correct the problem and ensure their optout button was properly rendered and functioning across each of the five browsers.

DECISION

All companies have the obligation to monitor their data collection and advertising practices to ensure compliance with the Principles, including ensuring that their notice and choice mechanisms are accessible and fully functional at all times. The Accountability Program finds that QuinStreet was not compliant with the Consumer Control Principle because it failed to exercise reasonable care to ensure that its consumer

choice mechanism was functioning properly across commonly used browsers.

Upon notification by the Accountability Program, the company promptly replaced the opt-out button with an opt-out link that is accessible across Internet browsers. The Accountability Program has conducted subsequent tests on the opt-out mechanism on all browsers previously tested and found the link to be active and the opt-out mechanism to be functioning as required by the Principles.

CONCLUSION

The Accountability Program's goal is to ensure that companies engaged in OBA comply with the Self-Regulatory Principles. The Accountability Program's monitoring and complaint processes are designed to identify areas of possible non-compliance, to make companies aware of potential non-compliance and to work with companies to rectify non-compliance. QuinStreet has implemented the Accountability Program's recommendations and the practice at issue has been resolved.

COMPANY'S STATEMENT

We appreciate the Accountability Program bringing this matter to our attention. We did not intend to provide a link that provided opt out for only one browser and not the other commonly used browsers. We have now fixed the link to provide opt-out for Safari, Internet Explorer, Opera, Chrome and Mozilla Firefox.

DISPOSITION OF DECISION

Practice voluntarily corrected.

1 QuinStreet is primarily a lead generator and does not use cookies for those purposes, according to the company. However, as stated in its privacy policy: "The non-personally identifiable information that QuinStreet collects is used for marketing and sales efforts to better target advertisements and other content in an effort to create a more personally relevant experience. The information is also used to predict responses to advertisements, and to help determine which ads perform best and which content is most appropriate for different individuals."

2 The company's privacy policy stated, "In order to "opt out" of the benefits of cookies, you can manually delete your cookies by following the instructions contained in the "Help" section of your browser. Alternatively, simply click the "OPT OUT NOW" button provided, below. QuinStreet uses a limited number of third party providers to manage cookies, and when you click the link below, you will be opted out of their tracking systems. Note that separate browser windows will be opened, and you need to allow pop-ups for this to happen."