

**ADVERTISING SELF-REGULATORY COUNCIL/COUNCIL OF BETTER
BUSINESS BUREAUS**

ONLINE INTEREST-BASED ADVERTISING ACCOUNTABILITY PROGRAM

ADMINISTRATIVE CLOSURE

Case Number 81-2017

DATE: December 11, 2017

IN RE: FIRST-PARTY MOBILE APP PUBLISHER

Summary:

The Online Interest-Based Advertising Accountability Program has exercised its discretion under its Procedures to close an inquiry regarding a first-party¹ mobile app publisher when it was determined that the company in question was not engaged in interest-based advertising (IBA) at the time of its review.

As part of its monitoring activities, the Accountability Program routinely reviews a number of mobile apps for compliance with the DAA Principles.² As part of its efforts, the Accountability Program reviewed a selection of apps that appeared to be directed at children. Using the Accountability Program's testing equipment, we found evidence that suggested that the company in question was authorizing third-party data collection³ for IBA through one of its apps that we had selected for review. However, we could not find a compliant first-party enhanced notice link in in any of the places prescribed by the Mobile Guidance.⁴ Furthermore, the Accountability Program observed potential issues with the company's compliance with the OBA Principles' Sensitive Data Principle. This provision requires that covered companies which collect personal

¹ The DAA Principles assign responsibilities to entities based on the role these entities are playing in a particular situation. Thus, an entity can be a first party, third party or service provider depending on the function it is performing. 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. *See Mobile Guidance* Definition G at 7.

² The DAA Principles consist of a suite of four documents: the Self-Regulatory Principles for Online Behavioral Advertising (OBA Principles), the Self-Regulatory Principles for Multi-Site Data (MSD Principles), the Application of Self-Regulatory Principles to the Mobile Environment (Mobile Guidance) and the Application of the Self-Regulatory Principles of Transparency and Control to Data Used Across Devices (Cross-Device Guidance) (collectively, the Principles), *available at* <http://www.aboutads.info/principles>.

³ *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.")

⁴ *Mobile Guidance* § III.A. at 17.

information⁵ for IBA do so only in compliance with the Children’s Online Privacy Protection Act of 1998.⁶

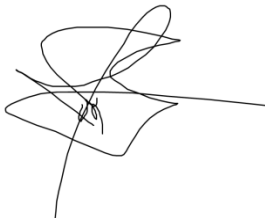
Following its initial review, the Accountability Program sent an inquiry letter to the company in question detailing its findings. The company’s response demonstrated to the satisfaction of the Accountability Program that the company had no outstanding compliance issues. As a result, the Accountability Program exercised its discretion to close this case without further action for the following reasons:

1. The company did not allow third parties to engage in IBA through its mobile applications at the time of the Accountability Program’s review.
2. The company was affirmatively committed to industry self-regulation under the DAA Principles and took steps to achieve compliance in advance of implementing IBA in its mobile app offerings.

When a company’s response to the Accountability Program’s inquiry demonstrates that the company has not violated the DAA Principles, the Accountability Program will normally close the case administratively. The Accountability Program was pleased to find that the company in question cooperated fully with its investigation and provided evidence that demonstrated that the company did not allow third-party IBA through the mobile app in question at the time of its review.

DISPOSITION:

Administratively closed.



Jon M. Brescia
Director, Adjudications and Technology
Online Interest-Based Advertising Accountability Program

⁵ *Complying with COPPA: Frequently Asked Questions*, at § A.3 (last visited Sep. 14, 2017) available at <https://www.ftc.gov/tips-advice/business-center/guidance/complying-coppa-frequently-asked-questions>. (“The amended Rule defines personal information to include...A persistent identifier that can be used to recognize a user over time and across different websites or online services.”) See also 15 U.S.C § 6501(8).

⁶ *OBA Principles* § VI.A. at 16-17. (“Entities should not collect ‘personal information,’ as defined in the Children’s Online Privacy Protection Act (“COPPA”), from children they have actual knowledge are under the age of 13 or from sites directed to children under the age of 13 for Online Behavioral Advertising, or engage in Online Behavioral Advertising directed to children they have actual knowledge are under the age of 13 except as compliant with the COPPA.”); see COPPA, 15 U.S.C. §§ 6501-6505.

