

# BBB NATIONAL PROGRAMS, INC.

## *DIGITAL ADVERTISING ACCOUNTABILITY PROGRAM*

**COMPANY:**

Compare.com Insurance Agency, LLC

**CHALLENGER:**

Digital Advertising Accountability Program

**FORMAL REVIEW**

Case Number: 113-2020

### DECISION

DATE: June 18, 2020

#### SYNOPSIS

The Digital Advertising Alliance’s (DAA) self-regulatory codes of conduct<sup>1</sup> encourage companies involved in interest-based advertising (IBA) to conform to the DAA’s Transparency and Consumer Control Principles.<sup>2</sup> Broadly, this means that companies should notify users of their IBA activities and provide tools with which users can prohibit or consent to the use of their data in IBA. Guidance for the application of these principles by website operators appears in the *Self-Regulatory Principles for Online Behavioral Advertising* (OBA Principles).<sup>3</sup> The OBA Principles and other DAA codes of conduct are independently enforced by the Digital Advertising Accountability Program (Accountability Program), a division of BBB National Programs, Inc.<sup>4</sup>

#### COMPANY STATUS

Compare.com Insurance Agency, LLC (Compare.com) is a Virginia-based company providing an eponymous insurance policy comparison website.<sup>5</sup> The company’s website experiences approximately 400,000 visits per month.<sup>6</sup>

---

<sup>1</sup> See generally, Digital Advertising Alliance (DAA), *DAA Self-Regulatory Principles*, available at <https://digitaladvertisingalliance.org/principles>.

<sup>2</sup> DAA, *Self-Regulatory Principles for Online Behavioral Advertising* (OBA Principles), pp. 2–3, available at [https://digitaladvertisingalliance.org/sites/aboutads/files/DAA\\_files/seven-principles-07-01-09.pdf](https://digitaladvertisingalliance.org/sites/aboutads/files/DAA_files/seven-principles-07-01-09.pdf).

<sup>3</sup> See generally, OBA Principles.

<sup>4</sup> See generally, BBB National Programs, Inc., Digital Advertising Accountability Program, available at <https://www.bbbprograms.org/programs/daap/iba-contact-us>.

<sup>5</sup> See generally Compare.com, *About Us*, <https://www.compare.com/about-us>.

<sup>6</sup> The Accountability Program notes that it calculated estimates for these figures utilizing the following tool: <https://www.similarweb.com/>.

## INQUIRY

In response to a consumer complaint, the Accountability Program inquired into the IBA practices and policies of Compare.com. Our analysis revealed the collection of web browser cookie data by multiple companies known to engage in IBA. However, Compare.com’s website design and privacy policy did not initially conform to the OBA Principles, discussed below.

### *Missing enhanced notice link*

When the Accountability Program first examined Compare.com, there was no enhanced notice link that took users directly to a disclosure of background data collection occurring for IBA purposes. The homepage featured a hyperlink that directed users to the top of a privacy policy,<sup>7</sup> rather than directly to the IBA disclosure. No other link on the website functioned as an enhanced notice link.

### *Incomplete IBA disclosure*

The Accountability Program went on to review the Compare.com privacy policy for any disclosure of third-party IBA activity occurring on the website. We found that the company provided an IBA disclosure, but it contained only one of the three pieces of information recommended in the OBA Principles. Specifically, the privacy policy informed users about the website’s third-party IBA in the “Cookies and Data Tracking” and “Third Party Analytics” sections, but both sections lacked opt-out information. They provided neither a link to an industry-developed opt-out tool, nor a complete list of third-party IBA companies active on the site, along with their respective opt-out mechanisms. Additionally, the privacy policy lacked a statement of adherence to the DAA Principles.

Following its review, the Accountability Program sent an inquiry letter to Compare.com explaining the requirements of the DAA Principles.

---

<sup>7</sup> Compare.com, *Privacy Policy* (July 18, 2019), <https://www.compare.com/about-us/privacy-statement> [<https://perma.cc/LT4R-DYLE>].

## ISSUES RAISED

A website operator that permits unaffiliated<sup>8</sup> companies to engage in IBA on its website is a “first party” under the OBA Principles.<sup>9</sup> The unaffiliated companies are known as “third parties.”<sup>10</sup> The OBA Principles and Commentary, along with the Accountability Program’s publications,<sup>11</sup> recommend that first parties provide an IBA disclosure (“notice”) with an IBA opt-out method, as well as a conspicuous “enhanced notice” link to the IBA disclosure.

### *Elements of an IBA disclosure*

A first-party IBA disclosure should include at least three pieces of information. First, it should describe any third-party IBA activity (e.g., data collection) the first party permits on its website.<sup>12</sup> Second, it should include a statement of adherence to the DAA Principles.<sup>13</sup> Third, it should provide either a link to an industry-developed website featuring an opt-out mechanism, such as the DAA’s WebChoices page ([www.aboutads.info/choices](http://www.aboutads.info/choices)), or a list of every third party engaged in IBA on the first party’s website with links to each of their respective opt-out mechanisms.<sup>14</sup>

### *Enhanced notice link to an IBA disclosure*

The enhanced notice link should be a “clear, meaningful, and prominent link” to the IBA disclosure, appearing on any page where third parties process data for IBA.<sup>15</sup> This link should be distinct from links to privacy policies and terms of service.<sup>16</sup> If the IBA disclosure is incorporated into a privacy policy, the link should lead directly to the relevant section, rather than the top of the privacy policy.<sup>17</sup> A first-party enhanced notice link is not necessary where a third party has placed its own compliant link on the first-party website.<sup>18</sup>

---

<sup>8</sup> *OBA Principles*, p. 9 (Defining an affiliate as “an entity that Controls, is Controlled by, or is under common Control with, another entity”).

<sup>9</sup> *Id.* at 10 (Defining a first party as an “entity that is the owner of the [website] or has Control over the [website] with which the consumer interacts,” as well as its affiliates).

<sup>10</sup> *Id.* at 11 (Defining a third party as an entity that engages in IBA on a non-affiliate’s website).

<sup>11</sup> *Id.* at 7 and 19; Digital Advertising Accountability Program (Accountability Program), Accountability Program Decisions and Guidance, *available at* <https://bbbprograms.org/programs/daap/accountability-program-decisions-and-guidance>.

<sup>12</sup> *OBA Principles*, II.B; *See, e.g.*, Accountability Program, Formal Review of Purple Innovation, LLC (June 7, 2018), p. 3 (Interpreting section II.B to require a first-party notice that includes a description of the third-party IBA activity taking place, an opt-out method, and a statement of adherence to the DAA Principles), *available at* [https://bbbnp-bbbp-stf-use1-01.s3.amazonaws.com/docs/default-source/accountability-program/ii-accountability-program-decisions/purple-decision.pdf?sfvrsn=66def3d1\\_2](https://bbbnp-bbbp-stf-use1-01.s3.amazonaws.com/docs/default-source/accountability-program/ii-accountability-program-decisions/purple-decision.pdf?sfvrsn=66def3d1_2).

<sup>13</sup> *OBA Principles*, II.B.

<sup>14</sup> *OBA Principles*, II.B.

<sup>15</sup> *OBA Principles*, II.B. This link should appear even when websites allow third parties to collect data for IBA but when no ads are being served.

<sup>16</sup> *Id.* at 31.

<sup>17</sup> *Id.* at 32.

<sup>18</sup> *Id.* at II.B.

## COMPANY RESPONSE & ANALYSIS

After the Accountability Program contacted Compare.com, the company quickly committed to compliance with the DAA Principles. The company added an enhanced notice hyperlink to the website footer, labelled “Your Advertising Choices,” which brings users directly to the IBA disclosure in the privacy policy’s “Cookies and Data Tracking” section.<sup>19</sup> This section now includes a link to the DAA’s opt-out page, [www.aboutads.info/choices](http://www.aboutads.info/choices), as well as a statement of adherence to the DAA Principles.<sup>20</sup> As a result of these actions, Compare.com’s website now conforms with section II.B. of the OBA Principles.

## CONCLUSION

This case clearly demonstrates the requirement for publishers to provide consumers with information to allow them to make informed decisions with regard to IBA. Companies that allow consumers to input their personal information for the purpose of product comparison stand in a particular place of trust with regard to the public. By providing an IBA disclosure with an opt-out tool, and enhanced notice linking to such a disclosure, companies can maintain such trust, honor consumer privacy, and provide their website visitors with transparency and choice about data collection.

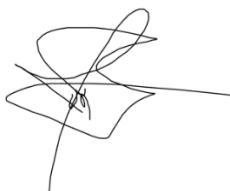
The Accountability Program thanks Compare.com for its commitment to consumer privacy and industry self-regulation.

## COMPANY’S STATEMENT

Compare.com is an advocate of transparency, fairness and consumer choice in online advertising, and we appreciate the opportunity to work with the Digital Advertising Accountability Program to ensure Compare.com’s privacy notices are accurate and easily accessible for consumers.

## DISPOSITION OF DECISION

Practices voluntarily corrected.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

---

<sup>19</sup> Compare.com, Your Advertising Choices hyperlink, *available at* <https://www.compare.com/about-us/privacy-statement#IBA>.

<sup>20</sup> Compare.com, *Privacy Policy* (last visited Apr. 3, 2020), “Cookies and Data Tracking”, *available at* <https://www.compare.com/about-us/privacy-statement#IBA>.

**Jon M. Brescia**  
**Vice President**  
**Digital Advertising Accountability Program**