

Online Behavioral Advertising Guidelines Go Mobile

September 28, 2015

On September 1, the Digital Advertising Alliance (DAA) began enforcing its guidelines for online behavioral advertising regarding mobile advertising. The DAA, a not-for-profit independent body, develops industry-best practices to protect consumer choice in online behavioral advertising. Any company engaged in mobile advertising should review any advertising and privacy practices, policies, and guidelines to ensure they comply with the DAA guidelines that are now being enforced. Online behavioral advertising refers to targeting ads to consumers based on their browsing history. The DAA's guidelines focus on any company that collects data about consumers' online browsing habits, uses that information, or permits third-parties to collect it. Originally published in July 2009, the guidelines include various recommendations to advertisers, including one that advertisers give consumers notice that their data is being collected and that consumers can opt out. In 2013, the DAA released additional guidelines specific to online advertising in the mobile environment. The mobile guidelines include specific recommendations regarding cross-application data collection and location data collection. This includes instances in which websites are allowed to access your information regarding applications on your phone to tailor advertisements to your tastes. However, when released in 2013, the DAA declined to enforce this guidance until appropriate tools were developed to allow consumers to opt out of online behavioral advertising in the mobile environment. Since there are now multiple opt-out tools available, including AppChoices, the DAA announced that it will begin enforcing these guidelines. The DAA guidelines include many potential safe harbors for companies where consumers receive proper notice and consent to the practices. While the guidelines provide no specific penalties for non-compliance, the Federal Trade Commission (FTC) has enforcement authority in this area. The FTC's recent praise of the DAA's leadership in this area indicates that compliance with DAA guidelines may save a company from referral to the FTC by the DAA. Therefore, companies should review their advertising and privacy practices, particularly those applicable to mobile advertising, and consider complying with the DAA's guidelines.

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