

Online Behavioural Advertising Compliance Procedure

The Accountability Principle is one of the core principles of the Digital Advertising Alliance of Canada (“DAAC”)’s Canadian Self-Regulatory Principles for Online Behavioural Advertising (the “Principles”).

The Principles provide that Ad Standards, the national, independent, advertising self-regulatory body, is responsible for the management and operation of the accountability program for the self-regulatory framework set out in the Principles.

The Accountability Principle requires Ad Standards to have in place monitoring, complaint handling, compliance, and transparency and reporting processes. Accordingly, this Compliance Procedure sets out the manner in which Ad Standards will:

- Actively monitor corporations or other legal persons that enter into an agreement with the DAAC to join the AdChoices Program (“Participants”), for compliance with the Principles;
- Receive and address complaints about the Online Behavioural Advertising (“OBA”) ¹ practices of Participants relating to possible non-compliance with the Principles;
- Work with Participants to achieve compliance with the AdChoices Program (the “Program”) requirements;
- Receive complaints about the OBA practices of Non-Participants relating to possible non-compliance with the Principles, and advise Non-Participants about the nature of such complaints; and
- Periodically publish compliance reports and other materials relating to Participant and Non-Participant compliance with the Principles and Program requirements.

¹ Online Behavioural Advertising or OBA is defined in the Glossary of the Principles as the collection of Data by a Third Party or Service Provider from a particular computer or device regarding Web viewing behaviors over time and across 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 preferences or interests inferred from such Web viewing behaviours. Online Behavioural Advertising does not include the activities of First Parties, Ad Delivery or Ad Reporting, or contextual advertising (i.e. advertising based on the content of the Web page being visited, a consumer’s current visit to a Web page, or a search query). OBA is often referred to as “interest-based advertising” (IBA).

Ad Standards

Summary of Procedure

Instances of possible non-compliance with the Principles will come to Ad Standards' attention through its active monitoring of Participants, and through complaints submitted to Ad Standards about a Participant or Non-Participant.

Monitoring

Ad Standards actively monitors Participants for compliance with the Principles on their websites and mobile apps, in particular the Principles of Transparency and Control. Where monitoring shows that there is a breach of one or more of the Principles, Ad Standards sends a letter to the Participant detailing the deficiencies, and explaining what the Participant must do to come into compliance. A response detailing the actions the Participant has taken, or intends to take, to come into compliance is requested within 20 business days.

Ad Standards will work with the Participant to help them achieve compliance, and to establish an agreed upon timeline within which it is expected that the Participant will come into compliance. If it becomes clear that the Participant is not making reasonable efforts to come into compliance, or has not taken appropriate action within the established timeline, Ad Standards will issue a warning letter to the Participant's listed representative(s) for the Program with the DAAC. The warning letter will set out the details of the Participant's non-compliance, and will require a response from the Participant within 15 business days that:

- Provides proof of its compliance with the Program, to the satisfaction of Ad Standards; or
- Contains a declaration that a) the Participant intends to comply with the Program, and b) commits to a detailed plan outlining what efforts it will make to achieve compliance; or
- Contains a declaration that the Participant will voluntarily withdraw its membership in the Program by contacting the DAAC.

If Ad Standards does not receive an adequate response within 15 business days, or if the Participant does not adhere to the terms of its declaration (as described above), Ad Standards may recommend to DAAC that the Participant's membership in the Program be terminated. The letter recommending the Participant's termination will be addressed to the DAAC with a copy to the Participant. Along with a recommendation for termination, Ad Standards may provide a case summary of the Participant's non-compliance to the DAAC's Board and/or Executive Committee and/or Executive Director. At this time, the Participant will be subjected to the DAAC's Participant Non-Compliance Procedure.

Complaints

Ad Standards reviews complaints it receives about possible non-compliance with the Principles. The complainant files a written complaint to Ad Standards through the Online Behavioural Advertising Reporting Form.

Preliminary Review of Complaint

Ad Standards conducts a preliminary review and determines whether there is sufficient evidence to pursue an investigation, or whether the complaint is “Excluded”.

A complaint is “Excluded” where, in Ad Standards determines that:

- the complaint is trivial, frivolous, vexatious, or is made in bad faith;
- the complaint relates to a Non-Participant that does not do business in Canada, or where the complaint relates to activities outside of Canada.;
- the matter or substance of the complaint is already the subject of an ongoing investigation by the Office of the Privacy Commissioner of Canada or another Canadian privacy regulatory authority;
- the matter or substance of the complaint is substantially similar to a matter that is currently or has been the subject of litigation or other legal action actively undertaken or pursued in Canada, or is under review or subject to an order by a Canadian court, tribunal or other body that has jurisdiction over the matter; or
- a resolution of the complaint is beyond the resources or ability of Ad Standards to resolve effectively or reasonably.

For complaints that are not accepted by Ad Standards because they do not raise a possible compliance issue under the Principles or are otherwise Excluded, Ad Standards responds to the complainant, and where possible, redirects them to the appropriate authority or other avenue to assist them in addressing the complaint. As appropriate, Ad Standards may forward a complaint to the Office of the Privacy Commissioner of Canada and/or other appropriate regulatory or self-regulatory authority.

Where the complaint involves a Non-Participant, Ad Standards notifies the Non-Participant if Ad Standards reasonably believes that there may be a breach of the Principles.

Investigations

Where the complaint involves a Participant, Ad Standards asks for any relevant information that is reasonably required by Ad Standards to determine whether there is a breach of the Principles, and/or request that the issue be remedied. Ad Standards requests a response in writing from the Participant within 20 business days. Ad Standards, in its discretion, may grant a reasonable extension of time for the Participant to respond.

Ad Standards

Resolution

Upon review of the response from a Participant, Ad Standards determines whether one or more of the Principles has been breached.

If Ad Standards determines that there is non-compliance with one or more Principles, Ad Standards will advise the Participant, and work collaboratively to effect compliance within a reasonable timeframe thereafter. Ad Standards will provide confirmation to the Participant when it believes that the issue has been satisfactorily addressed or remedied, and that no further action is required.

Failure to Respond or Comply with the Principles

If the Participant does not respond to Ad Standards within the prescribed time period, or refuses or otherwise fails to bring itself into compliance with the Principles, Ad Standards may forward the matter and the outcome of Ad Standards' investigation to the Office of the Privacy Commissioner of Canada and/or other appropriate provincial privacy regulatory authority.

Reporting

Ad Standards may publicly report findings of non-compliance for both Participants and Non-Participants, the reason for those findings, and any actions taken with respect to instances of non-compliance.

Ad Standards will only identify a non-compliant Participant where Ad Standards has determined that:

- there is a clear and unequivocal contravention of the Principles;
- the Participant has been informed of this determination; and
- no efforts are made within a reasonable timeframe to remedy the contravention.

Whether and how to report the contravention publicly will depend on the severity of the contravention, and whether Ad Standards determines that it is in the public interest to report the contravention.