

AdChoices ACCOUNTABILITY PROGRAM

2022 Compliance Report



Ad Standards is responsible for the accountability component of the Digital Advertising Alliance of Canada AdChoices Program.



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Introduction

Advertising Standards Canada (Ad Standards) is pleased to continue its support of the Digital Advertising Alliance of Canada (DAAC) and the AdChoices Program (AdChoices). This is our eighth annual AdChoices Accountability Program Compliance Report.

AdChoices arose from the industry's recognition that it is best positioned to understand and address the implications of advertising technology on consumer privacy, and to develop solutions to address consumer privacy concerns. The companies participating in AdChoices (Participants) have agreed to abide by the DAAC's Self-Regulatory Principles (the Principles). For compliance throughout 2022, the applicable Principles were the DAAC's Self-Regulatory Principles for Online Behavioural Advertising. These Principles help ensure that consumers are adequately informed of the collection and use of data for Interest-Based Advertising (IBA) purposes, and that they can exercise choice regarding this collection and use. New Principles (the Self-Regulatory Principles for Interest-Based Advertising) were adopted in October 2022 and will be used for monitoring compliance beginning in January 2023. These updated Principles are available at youradchoices.ca/en/principles.

Ad Standards works at an arms-length from the DAAC to independently monitor the compliance of Participants with the Principles, and we report on the compliance of all Participants annually. Ad Standards also continues to respond to questions and complaints from the public about IBA-related activities.

Substantial compliance among Participants remained high in 2022, and in fact increased as a percentage of the Participants. We note the prevailing receptiveness of Participants to Ad Standards' suggestions and direction toward improvement in their IBA practices in the spirit of the Principles. This report provides the results of Ad Standards' monitoring efforts of Participant compliance on both website and mobile properties. It also reports upon the consumer complaints received by Ad Standards related to IBA.



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2022 Findings – Overview and Methodology

Ad Standards reviews Participant websites and mobile apps to evaluate compliance with the Principles, focusing on the Notice & Transparency and Consumer Control mechanisms in place. These reviews include examining the websites and apps in detail, and monitoring the collection and use of data for IBA purposes. Ad Standards uses cookie viewers and other technical tools to analyze data collection relating to IBA. In addition, Ad Standards reviews privacy policies and other similar statements, and tests any control tools presented to the consumer.

In the case of mobile apps, Ad Standards relies upon Participants to answer, diligently and accurately, inquiries regarding mobile app practices, and to what extent it discloses information to Third Parties for IBA purposes. This is because mobile apps tend to have stringent security restrictions that make it difficult to determine where data is being sent. Participants who have websites and mobile apps are assessed based on overall compliance of both the websites and apps.

We use the term “substantially compliant” in this report to indicate where Participants meet the basic requirements required by the DAAC Principles (notice of IBA activity, Above the Fold Enhanced Notice, and an opt-out mechanism). If Ad Standards notes a potential compliance issue, we work cooperatively with the Participant involved on corrective action. Where it is possible for improvements to be made beyond substantial compliance, we support the Participant with suggestions toward enhanced compliance. In 2021, Ad Standards began assessing the degree to which Participants are going beyond the basic requirements of the Principles to allow for our future reporting of year-to-year trends in this area. To date, we have found no change in patterns in this regard – the number of Participants who go beyond basic requirements has remained relatively consistent over the last two years.

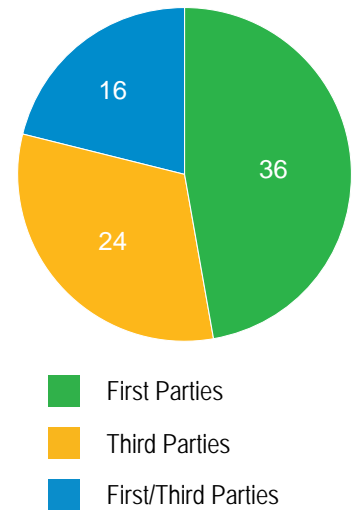
In 2022, Ad Standards reviewed 76 Participants: 36 First Party Participants, 24 Third Party Participants, and 16 Participants who traditionally qualify as both First Parties and Third Parties. These reviews were conducted between January and December of 2022.

A summary of the Principles as well as the complete Principles used in Ad Standard’s compliance review for 2022 is provided at [Appendix A](#) of this report. A glossary of capitalized terms used in this report is available at [Appendix B](#). Please note that the updated Principles that will be the basis for 2023 compliance are available online at: youradchoices.ca/en/principles.

Compliance – Review of Findings

Websites (including desktop and mobile websites) continue to remain the key source of IBA activity among Participants. In 2022, Ad Standards reviewed 76 Participants' websites. In addition to websites, **48 Participants** engaged in IBA activity using their mobile apps, which were also reviewed by Ad Standards:

- **Thirty-six (36) Participants** classified as First Parties;
- **Twenty-four (24) Participants** classified as Third Parties;
- **Sixteen (16) Participants** classified as Third Parties, who were also found to be acting as First Parties on their own corporate websites;
 - Although typically classified as Third Parties, these Participants also act as First Parties on their corporate websites. In other words, other Third Parties are collecting and using data on these corporate websites, usually by virtue of having some form of partnership or data-sharing agreements with these other companies.



First Party Participants

The vast majority of the First Party Participants in the AdChoices Program have remained substantially compliant or, in the case of the new Participant, has come into compliance with AdChoices' requirements. Participants typically express a desire to be compliant, and to provide consumers with meaningful choice when it comes to Interest-Based Advertising. In many instances, the shortfalls in compliance are inadvertent and corrected once brought to the Participant's attention, including the following recurring issues:

- In some cases, AdChoices Participants altered their websites since last being reviewed for compliance, and in the process, inadvertently moved or removed Enhanced Notice of IBA activity on their websites, which is a critical component of AdChoices compliance. In the vast majority of cases, these Participants have communicated and executed a plan to Ad Standards to re-introduce Enhanced Notice to their websites, within a specific timeframe.

Did You Know?

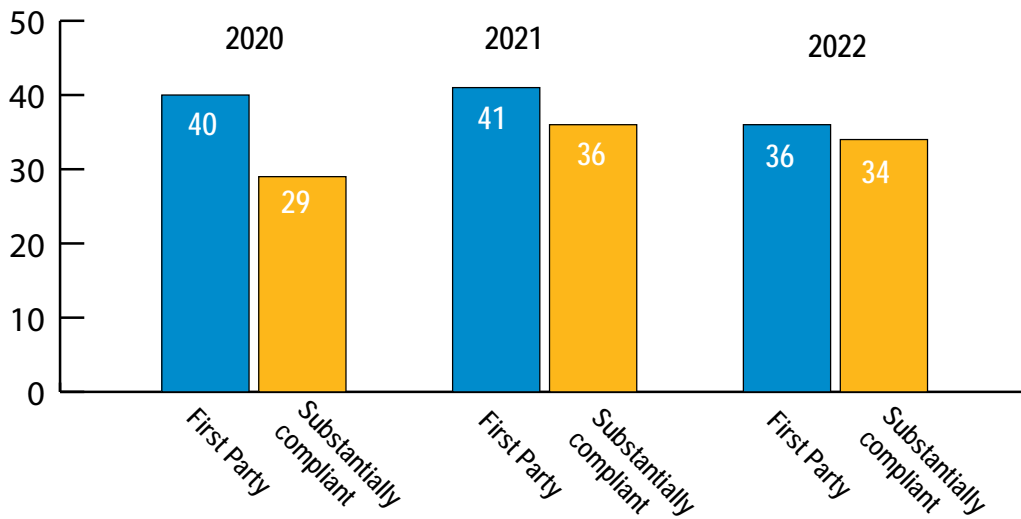
Ad Standards acts at an arms length from the DAAC to monitor Participants for compliance with the Principles. We also support the onboarding and education of new Participants, and work cooperatively with Participants to effect compliance.

Ad Standards also accepts and responds to complaints about practices that may not comply with the Principles. Where possible, we will help to educate the public about IBA, the Principles, and even assist them in navigating opt-outs or direct them to the right source to answer their inquiry or issue.

- In other cases, although the First Party Participant is substantially compliant and offers an Opt-Out Mechanism, the Opt-Out Mechanism has become outdated, and may not reflect all Third Parties present on these First Party’s website.

The following is a summary of First Parties’ compliance status at the end of 2022:

Thirty-four (34) of 36 First Parties demonstrated substantial compliance with AdChoices’ requirements. This continues the trend of increased compliance year over year since Ad Standards began auditing all Participants for compliance on an annual basis. **Eighteen (18) of the 36** First Parties have mobile apps in addition to their websites, all of which were in substantial compliance.



Of the two Participants requiring improvements or amendments, by year-end both had communicated about their improvement plans with Ad Standards.

1st Party Compliance Reminder

Enhanced Notice: Users should be able to click or tap on the Enhanced Notice, bringing them to a disclosure with more information about IBA. In assessing compliance with the Principles, Ad Standards typically looks for Enhanced Notice to appear above the fold. It could also be implemented using a banner or pop-up, or in some other way that comes to the users’ attention before they interact with the site or app.

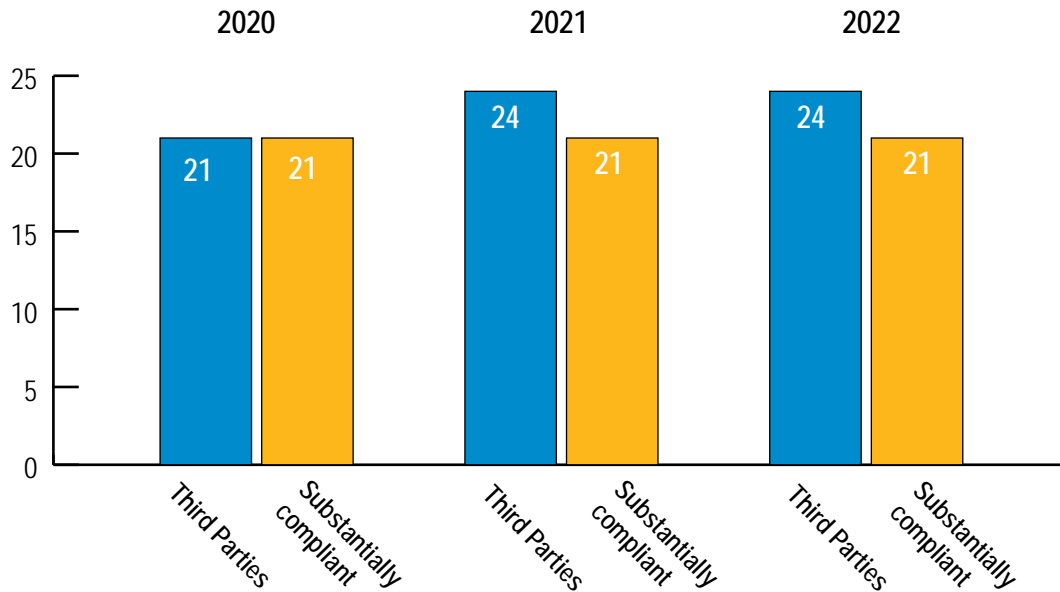
The disclosure may be a stand-alone statement or link to the relevant section of the applicable privacy policy describing adherence to the DAAC Principles. Users should understand from the statement what information is being collected (e.g. information about browsing activity on websites, activities across apps, etc.), who it is being disclosed to (e.g. Third Party companies), and what it is being used for (e.g. to serve more relevant online ads).

The disclosure must also confirm that opting out is possible, and link to an opt-out tool.

See more compliance tips at [Appendix C](#).

Third Party Participants

The vast majority (**21 of 24**) of **Third Party Participants** reviewed in 2022 are substantially compliant, including **17 of those 24** who also have mobile apps. By year end, one had communicated about its improvement plans with Ad Standards and two have been notified of deficiencies to be improved upon.



To be substantially compliant as a Third Party Participant requires they give clear notice of their IBA practices, and a means to opt out of data collection and use from their own platforms for IBA purposes.

Here are some easy ways for Participants to exceed compliance with the Principles:

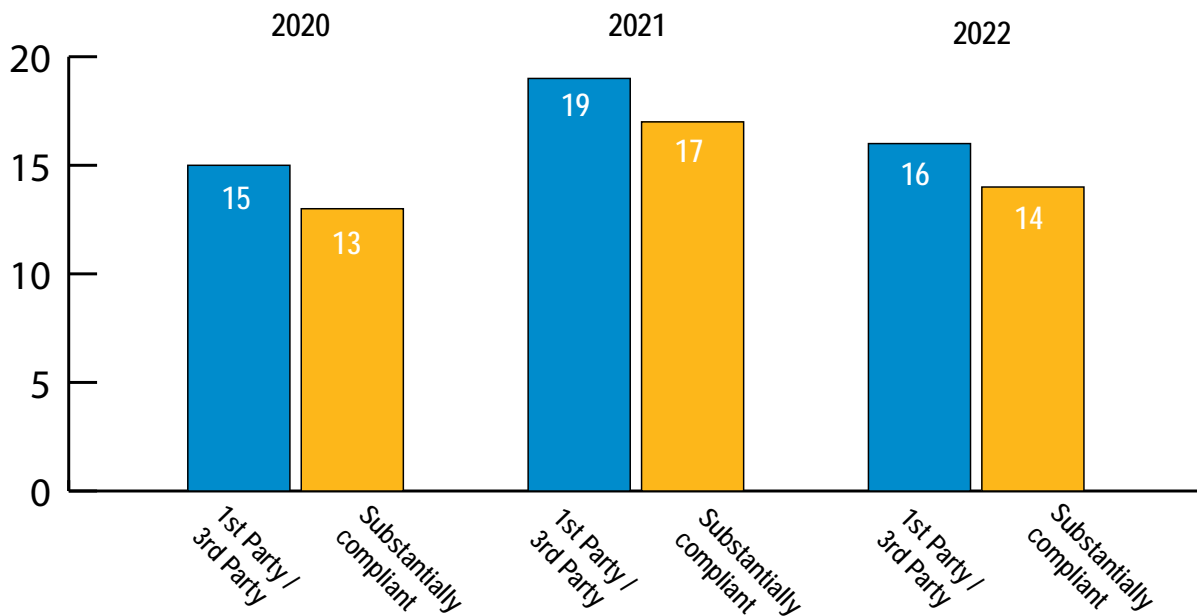
- Use infographics to explain how you collect and use people's browsing data for IBA purposes on your site;
- Use simple language to explain all the ways that interest-based preferences are captured and used;
- Keep in mind that how Interest-Based Advertising works is a highly complicated concept for most people. Try to make it as digestible and understandable as possible.



First Party/Third Party Participants

Sixteen (16) Participants reviewed in 2022 are Third Parties, but also operate as First Parties on their corporate websites.

Fourteen (14) of these 16 Participants were found to be substantially compliant on their websites in their capacity as Third Parties, by giving clear notice of their IBA practices, and a means to opt out of data collection and use from their own platforms for IBA purposes. **Thirteen (13) of these 16 First Party/Third Party Participants** also have mobile apps, all of which were found to be in substantial compliance.



By year end, **one of the First Part/Third Party Participants** had communicated about its improvement plans with Ad Standards. We continue to work with the **remaining Participant** to help it come into compliance.

Did You Know?

In 2023, Ad Standards will be asking each Participant to complete an Accountability Self-Certification Form regarding its practices related to compliance with the updated Principles. Submission of the completed form will be part of the compliance requirements for Participants. Ad Standards is happy to answer any questions that Participants may have about the form.



Reminder to Third Parties Operating as First Parties

Most Participants in the business of operating SSPs, DSPs, Ad Exchanges, and other ad technology platforms typically enter the AdChoices Program with the understanding that they are Third Parties under the Principles. In order to maintain the integrity of the Program, however, it is important that Third Parties' websites also abide by First Party requirements, if acting as such on their own corporate websites.

When Third Party Participants allow other Third Parties on their websites to collect and use people's browsing data for IBA purposes, they become First Parties under the Program. Although these websites may not be oriented towards the average consumer, the fact remains that consumers who enter onto these websites would be subjected to data collection and use from other Third Parties.

This means that, in addition to providing notice about the ways in which their technology platform uses data for IBA, and a means to opt out of the platform, these Third Parties must also provide:

- **Notice** of IBA practices as they relate to disclosing data to other third parties for IBA purposes on the website.
- **Enhanced Notice** at the website level: an above-the-fold link, in the form of the AdChoices Icon and text, or within a cookie banner, that immediately informs the consumer of IBA activity, and directs them to a fulsome disclosure about IBA practices on the website.
- **Opt-Out Mechanism** for all Third Parties who collect or use data, via the website, for IBA purposes (rather than an Opt-Out Mechanism that applies only to the Participant's technology platform), whether by developing a tool internally, using an approved provider, or linking to the DAAC WebChoices tool.



2022 Consumer Complaints

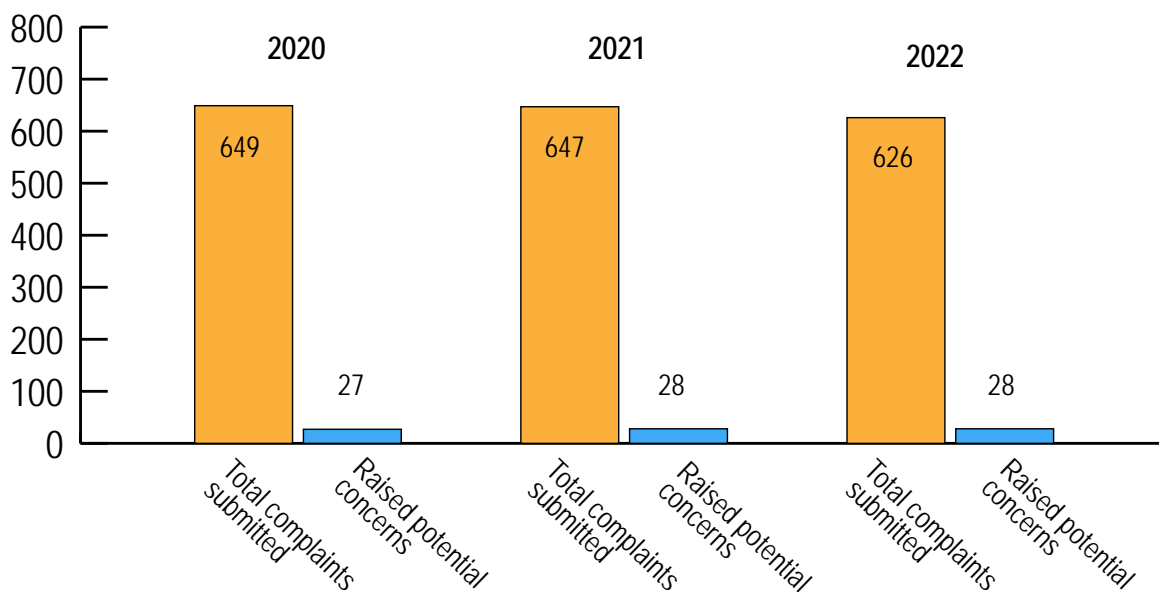


Ad Standards accepts and investigates the complaints it receives regarding possible non-compliance with the Principles. Ad Standards reviews each complaint and determines whether there is sufficient evidence to pursue an investigation. Where the complaint involves a Participant, and there is evidence of non-compliance with the Principles, Ad Standards works with the Participant to remedy the issue. Where the complaint involves a non-participant, and where there is evidence of a breach of the Principles, Ad Standards informs the non-participant of the complaint.

From January to December 2022, Ad Standards received **626 consumer complaints** for review under the AdChoices Accountability Program. This is within range of the 647 complaints received the previous year. As with previous years, the vast majority of these complaints do not relate to IBA, or to the AdChoices Program whatsoever. Again in 2022, **no complaints** were received about use of sensitive personal information for IBA purposes. A breakdown of the types of complaints received can be found on the next page.

IBA Related Complaints

Of the total number of complaints submitted to Ad Standards, only 28 of 626 raised potential IBA concerns, consistent with the prior two years.

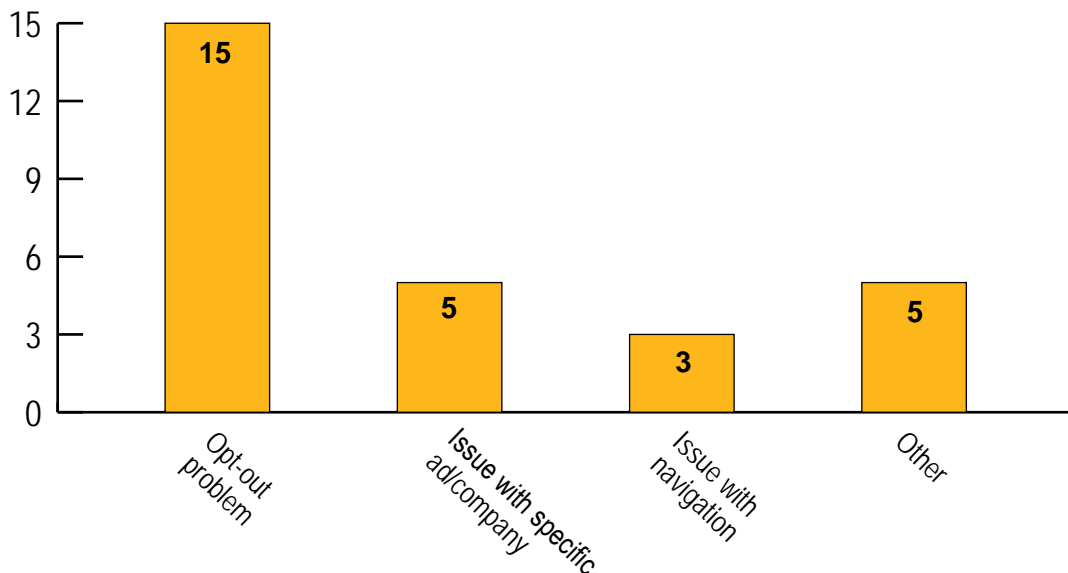


This year, more than half of all IBA-related complaints (**15 of 28**) related to difficulties opting out of IBA. Most often, this issue is related to an opt-out not functioning for all participants in a given request when using the DAAC WebChoices or one of its trusted partners' tools. Complainants were advised to simply re-try using the tool, as sometimes a temporary technical error may result in an incomplete opt-out. To our knowledge, this satisfied the complainants concerns, as none returned to report a continuing issue. Ad Standards has again raised with the DAAC these consumer concerns with the WebChoices tool not always effecting a full opt-out in one step, and we understand the DAAC to be looking into possible improvements in both communication and functionality to improve upon this issue.

Close to twenty percent (**5 of 28**) of the complaints related to changes made by one Participant that resulted in advertisements including the AdChoices logo appearing within consumers' email inboxes. Some consumers believed that these ads were actual emails and that through IBA, the Participant had obtained the consumer's email address. While these ads appeared within consumers' inboxes, they were not in fact emailed ads and no email addresses were used in their dissemination. Ad Standards responded to these complainants and provided additional guidance on how they could set their mailbox preferences going forward.

Three of the complaints (**3 of 28**) related to the complainant having a hard time navigating a Participant's website in order to find the appropriate place to opt out. All of these cases were reported back to the Participant so that they could make appropriate changes.

Most interestingly, one of the complainants (**1 of 28**) had used the AdChoices tool to opt out of IBA and then realized that they much preferred receiving ads based on their interests rather than the general ads that appeared after opting out. The complainant sought, and was provided with, help to opt back into receiving IBA.



Non-IBA Related Complaints

Of the 626 total complaints received, **340** of those that could be investigated appeared to be unrelated to IBA, and therefore did not raise concerns under the DAAC Principles.

Many of these complaints related to a desire to eliminate advertising from online activity entirely, or stemmed from complainants who were unhappy with ads blocking content.

As in previous years, a smaller number of complaints cited concerns about hacking or identity theft, or potential fraud or scams. We noticed an increased number of complaints that referenced advertisements with content they found to be distasteful or inappropriate (for example, related to the increase in the number of gaming ads). Where possible and appropriate, these complaints were reviewed under Ad Standards' Consumer Complaint Procedure and the *Canadian Code of Advertising Standards*.

Unable to Pursue

Ad Standards was unable to investigate or pursue more than forty percent of all complaints received (**258 of 626**). In most cases, this was due to a lack of information provided by complainants, even following Ad Standards' best efforts to request additional information (**188**). In other cases, the complaints were irrelevant or unanswerable by reason of being duplicative, related to a non-Participant, unrelated to advertising-related matters, or appeared to relate to matters or consumers outside of Canada. Where complaints fell outside of Ad Standards' jurisdiction, the complainants were redirected to the appropriate authority, where possible.

In accordance with the compliance procedure, best efforts were made to contact the non-Participant about the complaint received, and to educate them about the AdChoices program and Principles.

Conclusions



Ad Standards commends the Participants for their continued compliance efforts, and thanks each of them for their diligence and responsiveness to our inquiries. We are pleased to see this positive result from our increased annual touch points with the Participants, and their commitment to the program.

For additional information and resources for the public and industry, please see adstandards.ca/about/ad-choices-accountability-program and youradchoices.ca.

Appendix A – Summary of the DAAC Principles

The following is a summary of the DAAC Canadian Self-Regulatory Principles for Online Behavioural Advertising under which the Participants' compliance in 2022 was assessed. As set out in the Report, the Principles were updated in October 2022, and Participants' compliance will be assessed against the new Principles commencing in January 2023.

Education

Participate in efforts to educate about online Interest-Based Advertising.

Notice & Transparency

Clear, meaningful, and prominent notice should be given to consumers about data collection and use practices associated with online Interest-Based Advertising.

Consumer Control

Provide consumers with an ability to choose whether data is collected and used for online Interest-Based Advertising purposes.

Data Security

Provide appropriate security for, and limited retention of, data collected and used for online Interest-Based Advertising purposes.

Sensitive Data

Do not collect personal information for Interest-Based Advertising purposes from children under the age of 13 or from sites directed to children under the age of 13, unless such collection and other treatment of personal information is in accordance with Canadian privacy legislation. Entities are also prohibited from collecting or using sensitive personal information for Interest-Based Advertising purposes without consent.

Accountability

Under the Accountability principle, Ad Standards, an independent advertising self-regulatory body, monitors companies participating in the AdChoices self-regulatory program for compliance with these Principles, and works cooperatively with them to effect compliance. Ad Standards also accepts and responds to complaints about practices that may not comply with the Principles.

Appendix B – Glossary of Terms

Above the Fold

The placement of Enhanced Notice in a location on a website or app that is immediately visible, without requiring the user to scroll or navigate.

AdChoices Icon and Text

The icon licensed by the DAAC, with accompanying words “AdChoices” or “Choix de pub”, that can be used as Enhanced Notice or In-Ad Notice, to inform consumers of IBA activity on a website or mobile app.



Cross-App Data

Data collected from a particular device regarding application use over time and across other applications for the purposes of delivering Interest-Based Advertising in an application. Cross-App Data does not include Precise Location Data or Personal Directory Data.

Enhanced Notice

Clear, meaningful, and prominent notice of IBA activity, most often implemented by displaying the AdChoices Icon and Text “Above the Fold” on a website or mobile app, though sometimes implemented by way of a banner or pop-up notification that informs the user of IBA activity. Links to further information about IBA, and how to opt out.

First Party/ies

A First Party is a Participant in AdChoices that operates or controls a website with which the consumer interacts, and that allows Third Parties to collect and use consumer data via its website.

In-Ad Notice

Notice of IBA that is found within the corner of an advertisement, by way of displaying the AdChoices icon and text (ie. informing the user that the ad being delivered may be interest-based).

Interest-Based Advertising (IBA)

The collection of data online from a particular computer or device regarding web browsing activity, or activity on mobile apps, for the purpose of using such data to predict user preferences or interests, and to deliver advertising based on the preferences or interests inferred from such browsing activity and/or app activity.

Opt-Out Mechanism

A tool or other means by which a consumer is enabled to opt out of the collection and use of their data for IBA purposes.

Personal Directory Data (PDD)

Calendar, address book, phone/text log, or photo/video data created by a consumer that is stored on or accessed through a particular device and obtained for the purposes of delivering Interest-Based Advertising in an application.

Precise Location Data (PLD)

Data obtained from a device about the physical location of the device that is sufficiently precise to locate a specific individual or device for the purposes of delivering Interest-Based Advertising in an application.

Third Party/ies

A Third Party is a Participant in AdChoices who engages in Interest-Based Advertising (IBA) on a First Party's website or mobile app – in other words, advertising networks and data companies that collect web-viewing or app data across multiple sites and/or apps and use such data to serve online Interest-Based Advertising.



Appendix C – How to be Compliant: Best Practices for Participants

Companies have many laws and regulations to turn their attention to, and often multiple jurisdictions to consider when making changes to their websites and mobile apps. It requires an ongoing effort to create websites and apps that provide a favourable experience to the consumer, are well-designed, promote their products and services effectively, and meet all of their legal, regulatory and self-regulatory obligations.

Below are a few points that Participants should keep in mind when building or updating websites and apps, implementing Opt-Out mechanisms, and updating privacy and technology policies:

- Ad Standards encourages Participants to carefully review their implementation of the Program requirements, and thoughtfully consider how to optimize the user experience by using layered notices, and easy-to-understand language.
- It is important for First Parties to ensure that their Opt-Out Mechanisms are functional and kept current with opt-outs for all Third Parties collecting and using data for IBA purposes on their websites. First Parties should have a system or schedule in place to ensure that this is reviewed on a periodic basis, or monitored and updated continually.
- Participants using external service providers to create and monitor Opt-Out Mechanisms should work with these service providers to find innovative ways to create a clearer and simpler experience for the consumer. Many Opt-Out Mechanisms require multiple steps to opt-out, or may cause confusion to the consumer about their opt-out status. It is important to carefully assess the user-friendliness of the opt-out experience.
- Participants would be well-served to ensure that one or more of their staff are assigned to handle AdChoices compliance, and depending on available resources, consider forming a team of people who have experience in all areas that may be impacted: privacy, legal, marketing, UI/UX, and website/software development.
- In some cases, Ad Standards will ask Participants to provide information about its practices that cannot efficiently or reasonably be procured without the Participants' help. It is important for Participants to investigate diligently and answer the questions posed by Ad Standards, in order to allow Ad Standards to monitor compliance effectively, and preserve the integrity of the program. Participants should ensure that the information they provide to Ad Standards is comprehensive and accurate.
- In order to better understand their AdChoices obligations, Participants can:
 - Review the Principles regularly;
 - Read Supplementary Guidance released by DAAC;
 - Contact Ad Standards anytime to discuss potential changes to their websites and mobile apps, and how these changes might affect their compliance with AdChoices.

About Ad Standards

Ad Standards is the self-regulatory body for Canada's advertising industry. Through member support and cooperative industry initiatives, we build public confidence in advertising by helping ensure ads, in all media, are truthful, fair and accurate. We administer the *Canadian Code of Advertising Standards*, which sets criteria for acceptable advertising, and provides a mechanism for adjudicating and resolving consumer complaints and competitive disputes. We also review advertising creative and offer consultative services to help ensure compliance with relevant laws and regulatory guidelines. Our collaborative relationships with Canadian regulators and global self-regulatory organizations provide a diversity of valuable insights, which inform our initiatives and goals.

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