



October 27, 2018

Via electronic filing: <https://ftcpublic.commentworks.com/ftc/informationalinjuryworkshop/>

Hon. Donald S. Clark
Federal Trade Commission
Office of the Secretary, Suite 5610 (Annex A)
400 7th Street, SW, 5th Floor
Washington, DC 20024

Re: Informational Injury Workshop and P175413

The Digital Advertising Alliance (“DAA”) provides this comment in response to the Federal Trade Commission’s (“Commission” or “FTC”) notice of its December 12, 2017, Workshop on Informational Injury and request for comment on the same.¹ The DAA administers a self-regulatory program designed to provide consumers with transparency and choice regarding the collection and use of data from web browsers, mobile apps, and from across devices. The DAA sets standards by which companies can engage in the responsible use of data for online behavioral advertising (“OBA”). The DAA demonstrates how the market can flexibly and responsively address privacy concerns associated with dynamic data collection and use practices on the Internet through effective self-regulation.

I. Background on the DAA

The DAA was founded by the nation’s largest media and marketing trade associations, including the American Association of Advertising Agencies (“4A’s”), the American Advertising Federation (“AAF”), the Association of National Advertisers (“ANA”), the Data & Marketing Association (“DMA”), the Interactive Advertising Bureau (“IAB”), and the Network Advertising Initiative (“NAI”), in consultation with the Council of Better Business Bureaus (“CBBB”). Representing over 5,000 member companies, these associations have come together to develop and implement self-regulation for online, mobile, and cross-device data collection, backed by credible and independent enforcement.

The DAA’s model of self-regulatory principles and consumer education constitute the most effective framework for educating consumers about their data privacy choices while ensuring the Internet remains a platform for innovation. For more than two decades, online advertising has been an economic driver that has fueled growth and delivered innovative tools and services used by consumers and business to connect, communicate, and contribute to the continued evolution of the Internet. This advertising-based model continues to drive Internet growth and deliver benefits to consumers, without creating an identifiable consumer harm. Through self-regulatory efforts, industry will continue to quickly respond and address the evolving needs for transparency and control, as well as consumer preferences and concerns, while ensuring that the Internet can thrive, thereby benefiting consumers and the U.S. economy.

¹ Federal Trade Commission, *Notice of Workshop and Opportunity for Comment* (Sep. 29, 2017).

II. The DAA Principles

The Self-Regulatory Principles for Online Behavioral Advertising, released in 2009, implemented a self-regulatory code to provide consumer transparency and choice regarding data collection and use for OBA (also known as interest-based advertising).² These Principles are based on the FTC's recommended self-regulatory practices identified in its 2009 report on online behavioral advertising.³ There are seven basic Principles, which call for consumer education, the provision of choice mechanisms, data security, heightened protection for certain sensitive data, consent for certain material changes to online behavioral advertising data collection and use policies, and strong enforcement mechanisms. Lastly, the Principles require enhanced notice outside of the privacy policy so that consumers could be made aware of the companies they interact with while using the Internet. The Principles help to increase consumer trust and confidence in how information is gathered from them online, and how that value exchange is used to deliver advertisements based on their interests to provide the free and low-cost services they enjoy.

The DAA program continues to evolve to keep pace with change in technology and manner by which consumers engage with digital content. In 2011, the DAA extended its Principles to cover the collection and use of Multi-Site Data collected from a particular computer or device regarding Web viewing information over time and across non-affiliated Web sites to apply to uses beyond advertising.⁴ Then, in 2013, in response to the increased use of mobile devices, DAA again provided guidance on how its program addresses the collection and use of data from mobile devices, including Cross-App Data, Precise Location Data, and Personal Directory Data.⁵ For Precise Location Data, the Principles require companies to acquire user consent for the collection, use and transfer of such data for DAA covered purposes and provide a means by which consumers can withdraw their consent. Most recently, in 2015, the DAA introduced guidance for the application of its transparency and choice principles to the collection and use of data across devices, which became effective in the marketplace on in February of this year.⁶ Together, the 2009 Online Behavioral Advertising Principles, the 2011 Multi-Site Data Principles, the 2013 guidance extending the Principles to the mobile environment, and the 2015 cross-device linking guidance, represent an effective framework for addressing issues surrounding the collection and use of consumer data online that evolves with consumers and the ecosystem. This technology neutral framework is capable of balancing consumers' interests in transparency and control, with their desire to access innovative products and services in the marketplace.

² Digital Advertising Alliance, *Self-Regulatory Principles for Online Behavioral Advertising* (July 2009).

³ Federal Trade Commission, *FTC Staff Report: February 2009 Self-Regulatory Principles For Online Behavioral Advertising* (Feb. 2009).

⁴ Digital Advertising Alliance, *Self-Regulatory Principles for Multi-Site Data* (Nov. 2011).

⁵ Digital Advertising Alliance, *Application of Self-Regulatory Principles to the Mobile Environment* (Jul. 2013).

⁶ Digital Advertising Alliance, *Application of the DAA Principles of Transparency and Control to Data Used Across Devices* (Nov. 2015).

Under the DAA Principles, companies are required to inform consumers about their data collection and use practices, and offer consumers control regarding the collection and use of Multi-Site and Cross-App Data for DAA covered purposes. The centerpiece of the DAA program is the YourAdChoices Icon, a universal symbol deployed within or near advertisements delivered through DAA covered practices, or on Web sites and mobile applications where data is collected or used for DAA covered purposes. The YourAdChoices Icon appears more than a trillion times per month worldwide as part of Internet ads. By clicking on the Icon, consumers are brought to a clear disclosure regarding the participating company's data collection and use practices, as well as an easy-to-use mechanism to opt out of further data collection and use for OBA.

III. DAA Enforcement

The DAA is committed to vigorous enforcement of its Self-Regulatory Principles through credible, independent accountability programs. Because the DAA Principles apply to all entities engaged in the practices covered by the program, the Accountability Programs enforce against companies irrespective of formal adoption of, or participation in, the DAA program. This comprehensive and vigorous enforcement helps DAA-compliant businesses by promoting consumer trust.

Primary enforcement of the DAA Principles is carried out through two independent "Accountability Programs," which are operated by the CBBB and the DMA. These programs help ensure accountability in two ways: first, by affirmatively monitoring the marketplace and identifying companies and practices that appear out of compliance; and second, by receiving consumer complaints and acting upon this information via investigation of the companies identified.

If the Accountability Programs determine that a company is not meeting its obligations under the Principles, the programs will work to bring the company into compliance. The Accountability Programs have a proven track record of helping companies come into compliance; however, for uncorrected violations, the Accountability Programs may report these cases to the appropriate government agencies.⁷

The CBBB's accountability program has issued more than seventy public actions, compliance warnings, and various other compliance and enforcement related materials.⁸ The DMA has a similarly robust history of enforcement of the DAA Principles, drawing from its experience over many decades of enforcing industry codes, and the DMA releases an Annual Ethics and Compliance Report summarizing the consumer complaints and actions taken by the

⁷ Which has occurred once in the history of the Accountability Programs. CBBB, *SunTrust Bank Referred to the CFPB for Refusal to Participate in Self-Regulation* (May 2014).

⁸ Accountability Program Decisions, Dispositions, Closures, and Guidance, Advert. Self-Regulatory Council, <http://www.asrcreviews.org/accountability-program-decisions/>.

DMA each year related to the DAA program.⁹ The DAA’s model of enforcement helps ensure data is used responsibly for OBA purpose, and increase consumer protection in the market.

IV. Self-Regulation is the Proper Framework for Innovation

The DAA’s successful self-regulatory program has been praised by the FTC and the White House as providing important consumer protections, and increasing consumer trust, for the Internet based economy.¹⁰ The DAA’s approach, which reflects the framework proposed by the FTC, avoids a rigid regulatory structure that would be unable to evolve with developments in the digital economy, stifle the innovation and growth of the ad-supported Internet, and deny consumers the benefits they have come to expect from the ad-supported Internet. An example of the benefits consumers expect is illustrated in a recent Zogby poll, commissioned by DAA, which found consumers prefer an ad-supported Internet over one that would require paying for content and services like video streaming and news.¹¹

Consumers understand, and prefer, new ad-supported applications, platforms, communications protocols, and media, and embrace the inherent data exchanges that fuel these services and drive further innovation. Evidence of this understanding is the continued growth that the ad-supported Internet ecosystem provides to the economy of the United States. A study performed by Harvard Business School professor John Deighton, on behalf of the IAB, found that the ad-supported internet economy generated \$1.121 trillion for the economy, was responsible for 10.4 million jobs, and grew at a 20 percent rate of compound annual growth between 2012 and 2016 (representing five times the average American GDP growth over that period).¹²

V. Conclusion

The DAA’s continued ability to address new technologies and practices as they arise allows the market to provide a self-regulatory approach that has proven successful for consumers and industry alike. The DAA is a model of self-regulation that provides rapid and ongoing adaptation to evolving areas of the Internet ecosystem. Self-regulation is responsive to government and consumer concerns, feasible in light of existing technology and business practices, and flexible enough to respond to and foster the innovation that is characteristic of the high technology and online marketplace.

⁹ DMA, *Annual Ethics Compliance Report* (2016)

¹⁰ “This is the type of example of voluntary industry action to increase the trust in the Internet that is essential in the development of our economy...” Gene Sperling, Director, White House National Economic Council (Feb. 2012); “...DAA [has] taken steps to keep up with evolving technologies and provide important guidance to [its] members and the public. [Its] work has improved the level of consumer protection in the marketplace.” Federal Trade Commission, *Cross-Device Tracking*, 10 (Jan. 2017).

¹¹ DAA, *Zogby Poll: Americans Say Free, Ad-Supported Online Services Worth \$1,200/Year; 85% Prefer Ad-Supported Internet to Paid* (May 2016).

¹² John Deighton, *The Economic Value of the Advertising-Supported Internet Ecosystem* (Jan. 2017).



The DAA continues to monitor the ecosystem and develop responsive solutions to deliver transparency and control to consumers. The continued success of the DAA program shows that the marketplace is capable of developing a set of rules that provide low cost, advertising supported content to consumers, with transparency and control around how data is collected and used.

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The DAA appreciates the opportunity to comment on this proceeding and looks forward to continuing to work with the Commission on this matter. Please contact Michael Signorelli at 202.344.8050 with any questions.

CC:

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