FINAL DECISION

I. Synopsis

The Digital Advertising Alliance’s (DAA) Self-Regulatory Principles (OBA Principles)\(^1\) cover entities engaged in interest-based advertising (IBA) across websites or mobile applications (apps). Any operator of a website (a first party)\(^2\) that allows unaffiliated entities (third parties)\(^3\) to collect visitors’ web browsing data for IBA

\(^1\) The DAA’s interest-based advertising principles consist of a suite of four documents: the Self-Regulatory Principles for Online Behavioral Advertising (OBA Principles), the Self-Regulatory Principles for Multi-Site Data (MSD Principles), the Application of Self-Regulatory Principles to the Mobile Environment (Mobile Guidance) and the Application of the Self-Regulatory Principles of Transparency and Control to Data Used Across Devices (Cross-Device Guidance) (collectively, the Principles). The full text of the Principles can be found at http://www.aboutads.info/principles.

\(^2\) The DAA Principles assign responsibilities to an entity based on its role in a particular situation. Thus, an entity can be a first party, third party, or service provider depending on the function it is performing. Website operators are first parties. OBA Principles Definition F at 10 (“A First Party is the entity that is the owner of the Web site or has Control over the Web site with which the consumer interacts and its Affiliates.”). See also Accountability Program, First Party Enhanced Notice Compliance Warning, CW-01-2013, https://www.bbb.org/us/Storage/113/Documents/First-Party-Compliance-Warning-20131008.pdf. In the context of mobile applications, the first party is defined as the entity that owns or exercises control over the app, or its affiliates. Mobile app publishers are first parties under the Mobile Guidance. See Mobile Guidance Definition G at 7.

\(^3\) In the desktop context, third parties are entities that collect data for IBA from non-affiliate websites. See OBA Principles Definition J at 11 (“An entity is a Third Party to the extent that it engages in Online Behavioral Advertising on a non-Affiliate’s Web site.”). In the mobile app context, the term “third party” refers to entities that collect data for IBA through non-affiliate
must provide visitors with notice and enhanced notice as prescribed in the OBA Principles. Mobile app publishers that authorize third parties to collect data through their apps for use in cross-app IBA must provide users with notice and enhanced notice, as described in the Application of Self-Regulatory Principles to the Mobile Environment (Mobile Guidance).

II. Company Status

Ticketmaster Entertainment, LLC (Ticketmaster) is a California-based company that publishes the popular ticketmaster.com web domain and Ticketmaster mobile app. Through its website and mobile app, Ticketmaster has become a major online market for ticket sales and resales with roughly 15 tickets sold per second and 500 million tickets sold per year.4

III. Inquiry

As part of its routine monitoring and enforcement efforts, the Accountability Program opens investigations based on consumer complaints regarding alleged noncompliance with the OBA Principles.

This specific case arises from a consumer complaint claiming that Ticketmaster’s website was not in compliance with the requirements of the Transparency Principle of the OBA Principles.5 In response to the consumer complaint, the Accountability Program visited the website www.ticketmaster.com to review Ticketmaster’s compliance with the Principles. During its visit, the Accountability Program observed data collection by third-party companies known to engage in IBA.

When the Accountability Program examined Ticketmaster’s website, we located a link in the footer labeled “Privacy Policy.”6 When we clicked on the Privacy Policy link, it directed us to the top of a section of the company’s privacy policy. In reviewing this policy, we failed to locate a description of the third-party IBA practices occurring on its website or any other necessary language to meet the Transparency Principle of the OBA Principles.

After further reviewing the Ticketmaster website, we identified a buried webpage titled “AdChoices.”7 On this AdChoices page we found a full description of IBA

mobile apps, Mobile Guidance Definition N at 12 (“An entity is a Third Party to the extent that it collects Cross-App or Precise Location Data from or through a non-Affiliate’s application, or collects Personal Directory Data from a device.”).

4 Salesforce, Ticketmaster makes the world a stage with Salesforce, https://www.salesforce.com/customer-success-stories/ticketmaster/


6 Ticketmaster, Privacy Policy, https://privacy.ticketmaster.com/privacy-policy

practices on the site and a link to the DAA-developed AppChoices opt-out. However, the section was missing a link to the browser-based WebChoices DAA opt-out tool and a statement of adherence to the DAA Principles.

Under the Transparency Principle, Ticketmaster must provide a link—distinct from the privacy policy link—on each page where third-party data collection for IBA occurs. An enhanced notice link must, unlike the Ticketmaster website’s privacy policy link, take users directly to its IBA disclosure.

Based on the above review, the Accountability Program sent an inquiry letter to Ticketmaster explaining the compliance issues it had found on its website.

**IV. Issue Raised**

**A. Website data collection**

1. Enhanced notice of website data collection for IBA

First-party duties under the OBA Principles are set out in section II.B. According to this section, if first parties allow third parties to collect visitors’ browsing data for use in IBA on their websites, or if they transfer such data to third parties for tailoring ads on non-affiliate websites, they must provide consumers with appropriate transparency and an opportunity to exercise control over IBA. A first party must include a disclosure somewhere on its website that describes the IBA activity occurring there. This disclosure must contain either a link to an industry-developed consumer choice page (such as http://aboutads.info/choices) or a list of every third party conducting IBA activity on the first-party website. Additionally, a first party must state its adherence to the DAA Principles on its website.

Most significantly, the OBA Principles require first parties to provide consumers with real-time “enhanced notice” when third parties are collecting or using data for IBA on a first party’s website. This real-time indicator must be in the form of a “clear, meaningful, and prominent” link that directs consumers to the first party’s IBA

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8 OBA Principles § II.B. at 13–14.

9 Id.

10 Id. We note that when first parties choose to list third parties individually, the Commentary to the Consumer Control Principle instructs companies that “choice should be available from the Third Party(s) disclosure linked from the page where the Third Party is individually listed.” OBA Principles Commentary at 35.

11 OBA Principles § II.B. at 13–14. See also, e.g., In re Best Buy Co., Inc. (39-2014), Oct. 28, 2014, at 4. All prior cases cited herein can be found at http://www.asrcreviews.org/accountability-program-decisions/.
disclosure, not just to the top of a privacy policy. In addition, this link must be distinct from the company’s privacy policy link and must appear on every page where data collection or use for IBA occurs on the first party’s website. The link may be provided directly by the first party or by one of the third parties active on its website.

Enhanced notice provides consumers with two benefits. First, it informs consumers of the fact that third parties are engaged in IBA on a website. Second, by linking directly to a disclosure that describes the IBA activities occurring on that website and providing a method by which consumers can exercise choice, enhanced notice serves as a bridge to relevant information consumers need at precisely the time they need it. By drawing attention to this otherwise invisible background activity in real time, explaining it in plain language, and providing one or more choice mechanisms, enhanced notice helps consumers understand IBA and make choices about the use of their data for IBA.

V. Company response and analysis

In response to the Accountability Program’s inquiry letter, Ticketmaster immediately conducted a comprehensive review of its compliance with the DAA Principles in order to identify any areas in its compliance protocols that needed strengthening. Following this review, Ticketmaster changed its privacy practices, as described below.

A. Enhanced Notice of website data collection for IBA

Notably, the Ticketmaster website uses different site footers in different contexts, a primary footer that appears on most pages and a shortened, secondary footer that appears under a few select pages that require additional space for user interaction (e.g., seat view pages). Because of this, Ticketmaster made distinct changes to both styles of site footer to ensure all pages were brought into compliance.

For webpages that display the primary site footer, Ticketmaster added a prominent and conspicuous link titled “Ad Choices.” The new primary footer “Ad Choices” link takes users to the top of the aforementioned Ad Choices page that now contains all elements of enhanced notice, namely (1) a description Ticketmaster’s third-party IBA

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12 OBA Principles Commentary at 32 (“The Principles also state that the Web sites at which Third Parties are collecting data for Online Behavioral Advertising purposes should include a new clear, meaningful, and prominent link on their Web sites when Third Parties do not provide the notice described in II.A.(2)(a). This would link from the Web page where data is collected to specific language in a disclosure. If the disclosure language is in the privacy notice, the link should go directly to the relevant section of the privacy policy where the disclosure is located and not just generally to the privacy policy.”).

13 Id. at 31.

14 First Party Enhanced Notice Compliance Warning at 3.
practices, (2) a link to the DAA industry-developed AppChoices and WebChoices opt-out tools, and (3) a statement of adherence to the DAA Principles.

For pages that use the secondary footer, Ticketmaster has committed to changing the existing “Manage My Cookies” link in the footer to read “Manage My Cookies and Ad Choices.” A user that clicks this new link receives a pop-up Consent Management widget that (1) directs users to read more by choosing the same Ad Choices link to the page as previously discussed and (2) provides a description of IBA practices and link to the DAA industry-developed third-party IBA opt-out tools. While changes to the text of the Consent Management widget have already taken place, Ticketmaster is unable to change the name of the “Manage My Cookies” footer link to read “Manage My Cookies and Ad Choice” until a later date (as predetermined with the Program) due to the nature and complexity of the Ticketmaster website. Because this change is necessary to provide the “clear, meaningful, and prominent link” required of first-party enhanced notice,15 the Accountability Program will retain jurisdiction in this matter until the date all final changes are made to the site footer language.

By taking this approach and making these changes, Ticketmaster ensured that consumers wishing to learn more about how their data was being collected and used by third parties would be directed to relevant information about their choices. These changes will bring Ticketmaster’s First Party Enhanced Notice into compliance with the DAA Principles.

VI. Company statement

Ticketmaster’s goal is to maintain the trust and confidence of its consumers by complying with global data protection laws to the highest standard and being transparent when it comes to the processing of our consumer’s data. We commend the Digital Advertising Accountability Program’s similar mission and dedication to compliance with the DAA self-regulatory requirements.

VII. Disposition of decision

Practices voluntarily corrected; certain changes still to be fully implemented. The Accountability Program retains jurisdiction in this matter until the date final changes are implemented so that the website is brought into complete compliance.

Digital Advertising Accountability Program

15 See OBA Principles § II.B. at 13.