BBB NATIONAL PROGRAMS

DIGITAL ADVERTISING
ACCOUNTABILITY PROGRAM

Digital Advertising Accountability Program, Challenger, Starz Entertainment LLC, Corporation.

Case No. 132-2023
Filed December 12, 2023

FINAL DECISION

I. Synopsis

The Digital Advertising Alliance’s (DAA) Self-Regulatory Principles (DAA Principles) cover entities engaged in interest-based advertising (IBA) across websites or mobile applications (apps). Any operator of a website (a first party) that allows unaffiliated entities (third parties) to collect visitors’ web browsing data for IBA must provide visitors with notice, enhanced notice, and an opportunity to exercise choice regarding that data collection as prescribed in the Self-Regulatory Principles for Online Behavioral Advertising (OBA Principles).

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, assets.bbbprograms.org/docs/default-source/daap/program-guidance/accountability-program-first-party-enhancednotice-compliance-warning-cw-01-2013.pdf?sfvrsn=25e3af96_4.

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.”).
II. Company Status

Starz Entertainment LLC (Starz) is a company in the United States that offers premium film and television content through cable television channels, the starz.com web domain, and streaming applications for desktop, mobile, and smart televisions.

III. Inquiry

This case arises from the Accountability Program’s ongoing monitoring of websites. The Accountability Program identified Starz’s website\(^4\) and reviewed it for compliance with the OBA Principles. During that review, the Accountability Program detected signs of data collection by companies known to us to engage in interest-based advertising (“IBA”) on the Starz website.

As the company that owns or controls a website on which user data appeared to be collected or used for IBA, Starz is a first party under the OBA Principles.\(^5\) When entities engage in IBA on websites with which they are unaffiliated, they are acting as third parties under the OBA Principles.\(^6\) Based on the observation of apparent third-party IBA activity, the Accountability Program evaluated Starz’s compliance with its First Party responsibilities under the OBA Principles.

As previously noted, a first party that allows third parties to collect visitors’ web browsing data for IBA must provide visitors with notice, enhanced notice, and an opportunity to exercise choice regarding that data collection, as prescribed in the OBA principles. When examining the Starz.com domain and respective web browser on mobile, the Accountability Program could find no link—separate and distinct from a privacy policy link—that took users directly to an IBA disclosure. While every page on the Starz website provided a privacy policy hyperlink in its footer, this type of link does not constitute enhanced notice, as it is not distinct from a general privacy policy link and does not take users directly to an IBA disclosure. The Accountability Program found that Starz’s privacy policy provided (1) disclosures related to third-party IBA practices and (2) links to industry-developed IBA opt-out mechanisms operated by the DAA and the Network Advertising Initiative.\(^7\) However, these elements of enhanced notice were separated across different sections in the privacy policy. Because these elements of notice were not concatenated together in a single

\(^4\) https://www.starz.com/.

\(^5\) OBA Principles, Definition F at 10 (defining a first party as “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”).

\(^6\) OBA Principles, Definition C at 9 (defining an affiliate as “an entity that Controls, is Controlled by, or is under common Control with, another entity”); id., Definition J at 11 (defining a third party as an entity that “engages in Online Behavioral Advertising on a non-Affiliate’s Web site”).

section of a disclosure, the Accountability Program was concerned that consumers might have difficulty accessing all relevant IBA-relevant information. Additionally, the Starz privacy policy did not contain a statement of adherence to the DAA Principles.

For the foregoing reasons, the Accountability Program sent an inquiry letter to Starz informing the company of these issues in order to bring the company into compliance with the OBA Principles.

IV. Issues 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 disclosure, not just to the top of a privacy policy. In addition, this link must be

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.


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
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.\textsuperscript{13} The link may be
provided directly by the first party or by one of the third parties active on its
website.\textsuperscript{14}

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, Starz conducted a review
of its compliance with the DAA Principles in order to identify areas in its compliance
protocols that needed strengthening. The company consulted with the Accountability
Program on its plan to come into compliance with the DAA Principles, as explained
below.

A. Real-Time Enhanced Notice of website data collection for IBA

Starz added a hyperlink to the footer of each page on the starz.com site labeled
“Cookies/Ad Settings.” This new link takes users directly to the privacy policy section
on “Advertising Cookies,” “Embedded Scripts / Web Beacons,” and “Third Party Ad
Servers”—the information most relevant to IBA practices.

Starz already linked to the DAA-developed third-party opt out tool farther down in
the policy under the “Interest-Based Advertising” bullet of the “Your Choices”
section. Because this element of enhanced notice was in a different section than the
IBA disclosures, Starz added language within its IBA disclosure concerning
“Preferences,” which indicates that consumers have the ability to change preferences
that affect collection, including the option to opt out of third-party interest-based
advertising collection by following a jumplink to the “Interest-Based Advertising”
bullet under the “Your Choices” Section of the privacy policy. Starz also added
jumplinks to the end of the paragraphs on “Advertising Cookies” and “Third Party

\footnotesize{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.”}

\textsuperscript{13}\textit{Id.} at 31.

\textsuperscript{14}\textit{First Party Enhanced Notice Compliance Warning} at 3.
Ad Servers” that link directly to the “Interest-based Advertising” bullet so that users may easily access their choices after reading about the primary third-party technologies for collection. Starz also adopted language under the link to the DAA-developed opt out tool that reads “Starz is committed to consumer transparency and choice, and respects the industry self-regulatory DAA Principles.”

By taking these steps, Starz ensured that consumers wishing to learn more about how their data is being collected and used by third parties would be directly delivered to relevant information about IBA practices and consumer choices affecting IBA collection.

VI. Company statement

Starz is committed to transparency and consumer choice. We commend the Accountability Program’s mission and its dedication to overseeing compliance with the industry, self-regulatory DAA Principles. Starz welcomed the opportunity to voluntarily participate in a collaborative process with the Accountability Program to identify ways to increase consumer awareness of interest-based advertising, in accordance with these industry principles. We are confident that the voluntary actions Starz took to implement enhanced notice and emphasize consumer choices demonstrate our ongoing commitment to privacy and our respect for the Principles.

VII. Disposition of decision

Practices voluntarily corrected.