



## DAA Mobile Guidance Enforcement Prep: September 1, 2015

**August 4, 2015 |  
Digital Content Next**



# Today's Agenda | Mobile Accountability

- **September 1, 2015**
- U.S. enforcement date for DAA Mobile Guidance
- DAA Enforcement Partners: Council of Better Business Bureaus and the Direct Marketing Association
- Active monitoring of First Parties & Third Parties
- Supplemented by Complaint-based system
- **Independent** of DAA
- Take-aways for First Parties  
(What you should do now)

## TODAY'S PRESENTERS

**Lou Mastria,**

CIPP, CISSP, Executive Director,  
*Digital Advertising Alliance*

**Michael Signorelli,**

Partner, *Venable LLP* & Counsel,  
*Digital Advertising Alliance*

**Genie Barton,**

Vice President & Director,  
Online Interest-Based Advertising Accountability Program  
& Mobile Marketing Initiatives,  
*Advertising Self-Regulatory Council |*  
*Council of Better Business Bureaus, Inc.*

# The DNA of DAA



# DAA answered 'The Call'...



- The Call for increased transparency
- The Call for increased accountability “with teeth”
- The Call for real-time notice and choice outside of the privacy policy
- The Call for evolving at the dynamic pace of Internet change
- The Call for balancing the need for relevant advertising and content with the desire for meaningful control
- The Call for innovation not to be hindered by static legislation or regulation
- The Call for a ubiquitous, reliable solution for an entire ecosystem

# DAA Principles cover interest-based advertising and multi-site data collection

<https://www.aboutads.info/principles>



## ***Self-Regulatory Principles for Interest-Based Advertising***



## ***Self-Regulatory Principles for Multi-Site Data***

Enforcement provided by  
CBBB and DMA



# DAA Principles for Multi-Site Data Collection



## *Self-Regulatory Principles for Multi-Site Data*

The cross-industry **Self-Regulatory Principles for Multi-Site Data** augment the IBA Principles by covering the prospective collection of Web site data beyond that collected for advertising – allowing for other permissible business purposes.

MSD Principles also forbid the use of MSD for making certain important eligibility determinations among them:

- Credit
- Medical care
- Insurance
- Employment

# FTC Bureau of Consumer Protection Director Jessica Rich...

“Over the years, the FTC has emphasized that when implemented in tandem, self-regulation and government oversight provide valuable efficiencies and benefits.

In fact, well-constructed industry programs with certain hallmarks – (1) clear requirements, (2) widespread industry participation, (3) active monitoring, (4) effective enforcement, (5) procedures to resolve conflicts, (6) transparent and independent processes, and (7) responsiveness to changing markets and consumers – offer some clear advantages over government regulation alone.

**They can be more prompt, flexible, and responsive than when we only enforce through statutes and regulations.**

They also can be better tailored to reach to particular categories of marketing or particular categories of businesses.”



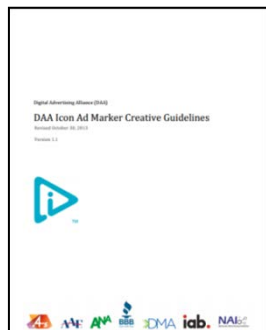
# FTC involvement with DAA Program



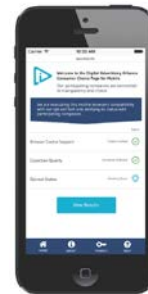
# DAA's mobile journey



Mobile  
Guidance  
Released – July  
2013



Creative Ad  
Specification  
for DAA Icon in  
Mobile – April  
2014



Consumer  
Choice Page for  
Mobile Web –  
February 2015



AppChoices –  
February 2015



Accountability –  
September 1  
Enforcement!



# DAA offers specific mobile guidance for application of its Principles



## ***Application of Self-Regulatory Principles to the Mobile Environment***

- This guidance explains how the existing *IBA Principles* and *MSD Principles* (the DAA Principles) apply to certain types of data in the mobile Website and application environment.

# Guidance for four specific mobile data types

- This guidance responds to the fact both First Parties and Third Parties operate across a variety of channels, including mobile. As advertisers and consumers go multi-screen, so does DAA.
- Addresses First- and Third-Party obligations with respect to the following data practices:
  - (1) Multi-Site Data**
  - (2) Cross-App Data**
  - (3) Precise Location Data**
  - (4) Personal Directory Data**

# Who may be covered by the Guidance in mobile environments?

First Party: An entity that is the owner of an application, or has control over the application, with which the consumer interacts, and its Affiliates. **Most publishers likely are first parties.**

Third Party: An entity is a Third Party to the extent that it collects Cross-App Data or Precise Location Data from or through a non-Affiliate's application, or collects Personal Directory Data from a device.

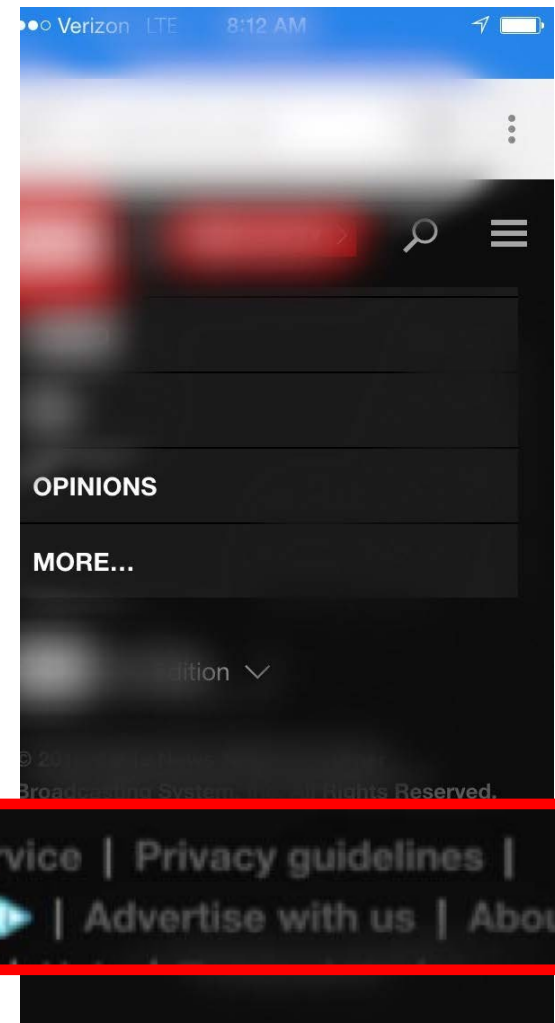
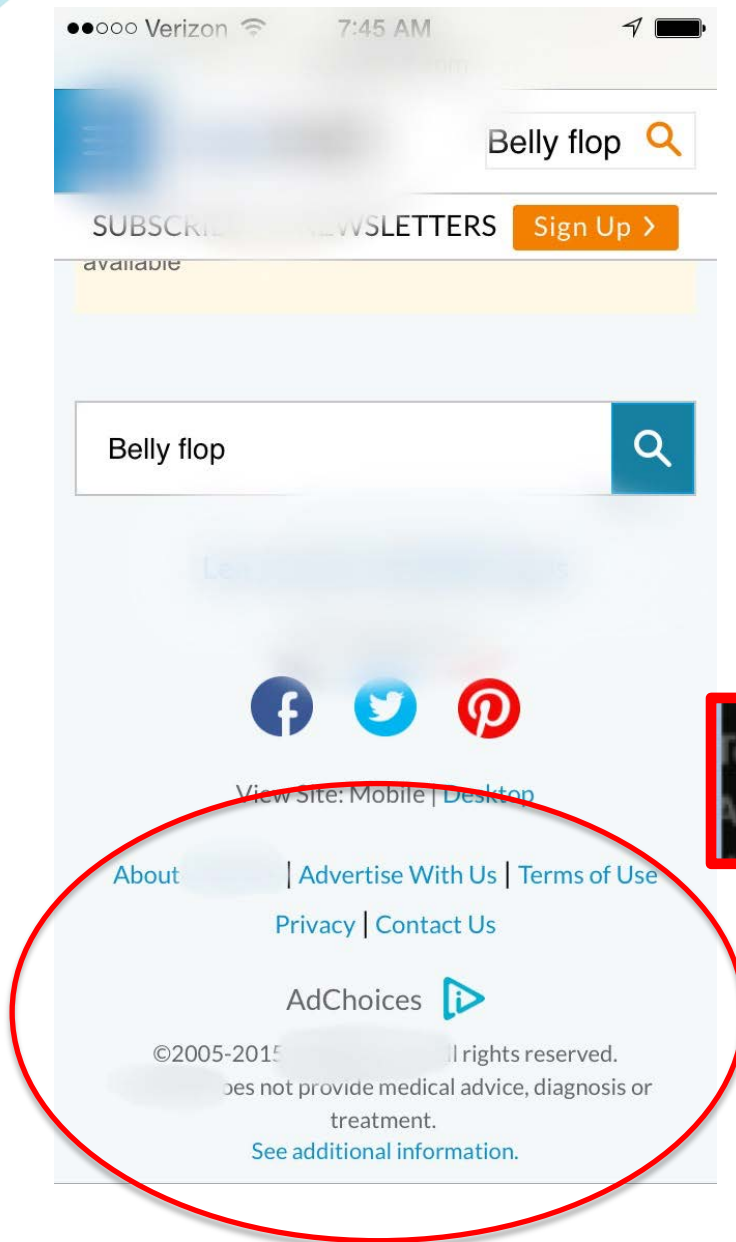
**Note whether a party is a first party or a third party depends on its function in particular circumstances.**

# Are there limited purposes for mobile data collection & use not covered by the Guidance?

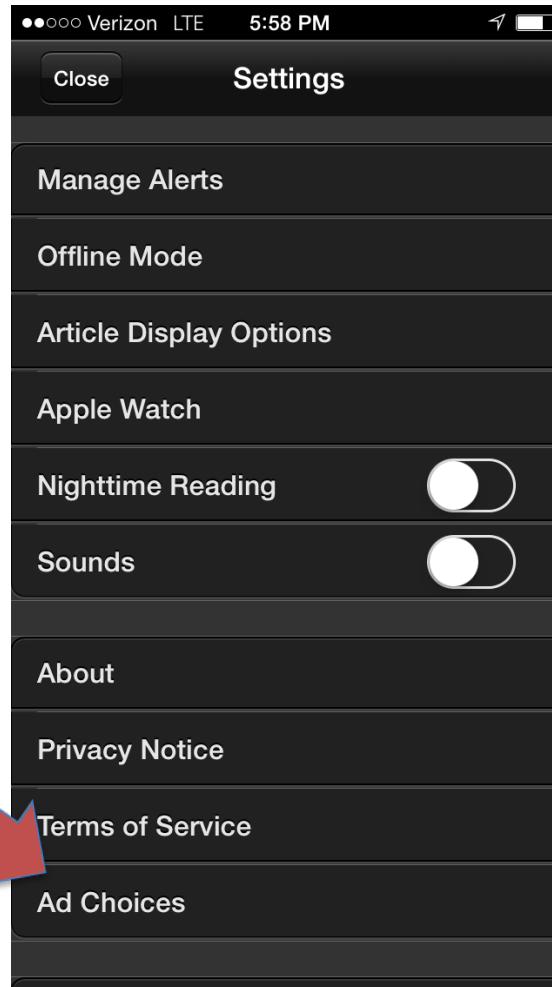
Consistent with Multi-Site Data Principles, transparency and control should be provided for Mobile Web Data, Cross-App Data, Precise Location Data or Personal Directory Data **except**:

- For **operations and system management purposes**:
  - Intellectual property protection
  - compliance, public purpose and consumer safety;
  - authentication, verification, fraud prevention and security
  - billing or product or service fulfillment
  - Reporting or Delivery (as defined in existing Principles)
- For **Market Research or Product Development**; or
- Where the data has or will within a reasonable period of time from collection go through a **De-Identification process**.

# Sample In Mobile Web



# Sample In Applications





# Cross-App Data

- **Cross-App Data**

- Cross-App Data:

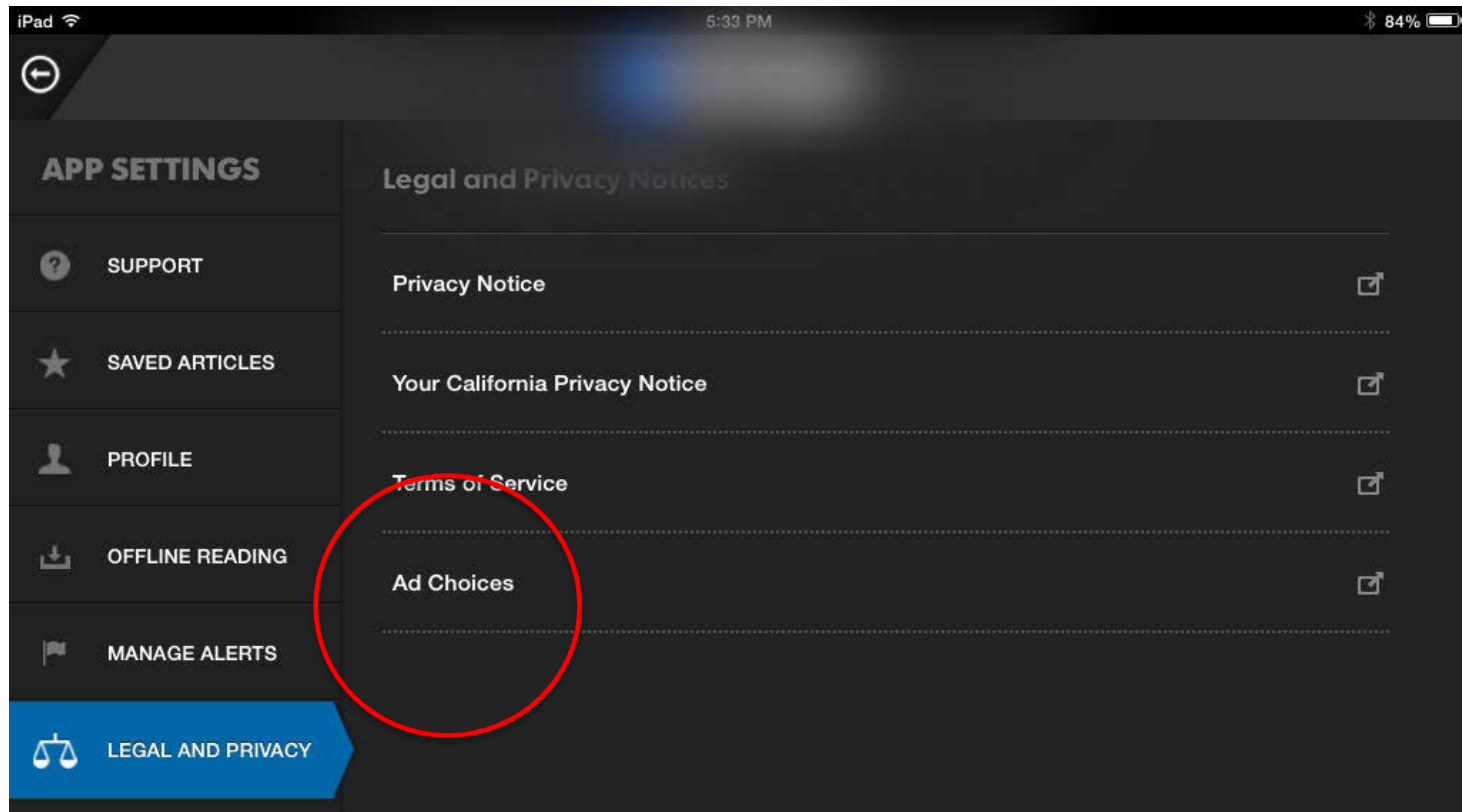
- Data collected on a particular device regarding application use over time and across non-Affiliate applications

- Principles:

- **First-party requirements for enhanced notice of collection**
  - Third party also provides enhanced notice, choice

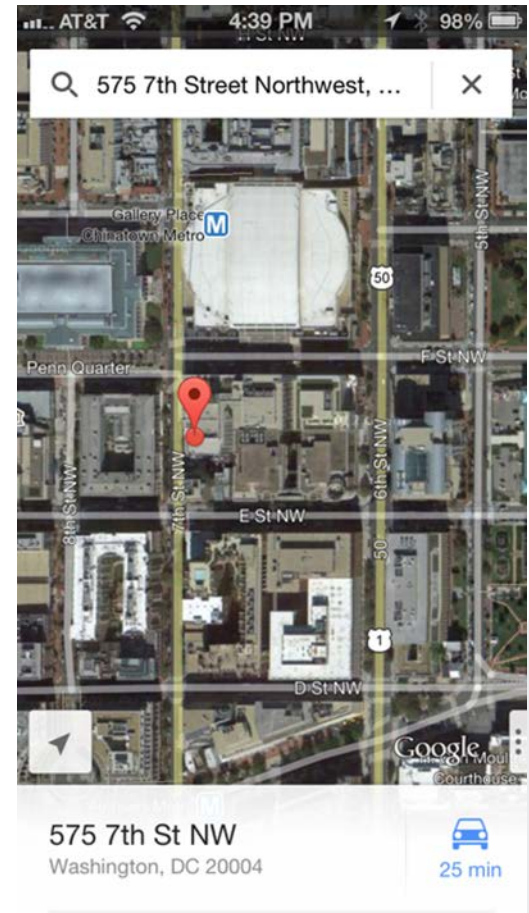


# Sample Disclosures in App Settings

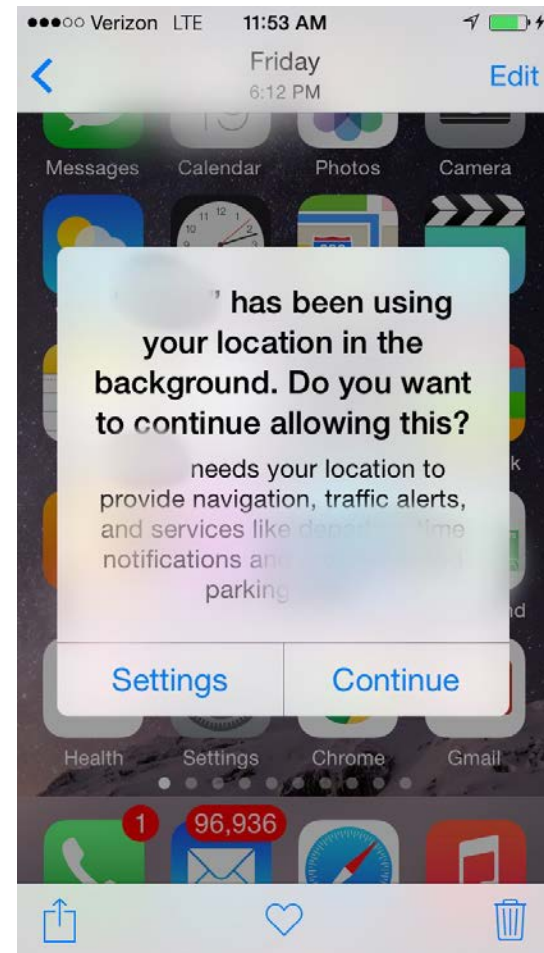
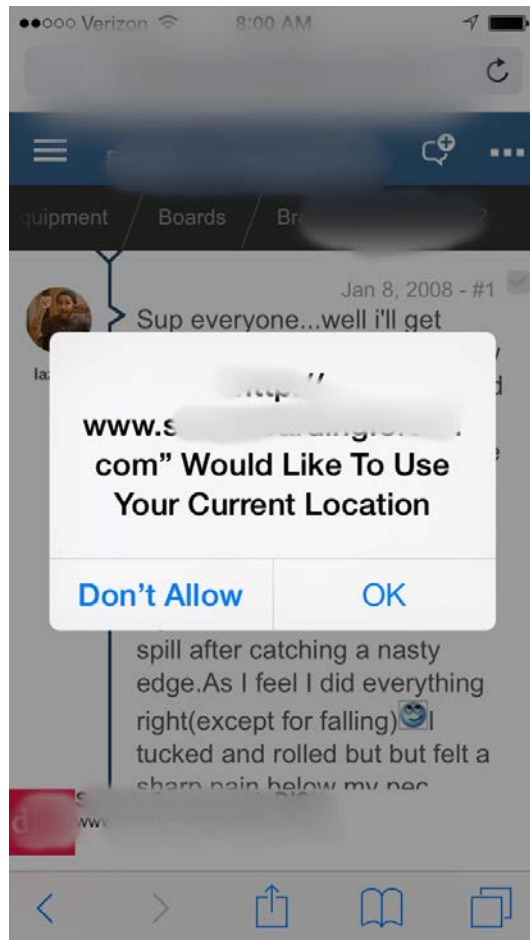


# Location and Directory Data

- **Precise Location Data & Personal Directory Data**
  - Precise Location Data:  
Data about the physical location of a device that is sufficiently precise to locate a specific individual or device
  - Personal Directory Data:  
Certain data (e.g. calendar, address book) created by a consumer that is stored on or accessed through a device
  - **Authorization is required for first and third parties prior to collection and use**



# Sample Location Data Notices & Consent

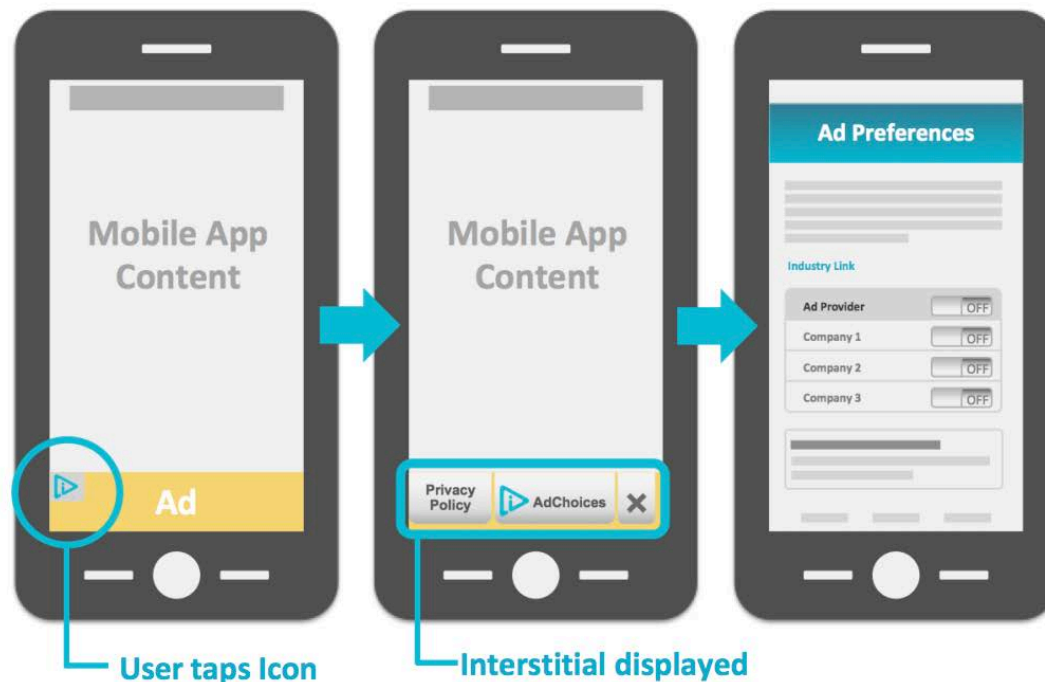


# Mobile Specifications for Use of the DAA 'Your Ad Choices' Icon

How to Deploy the DAA Icon in Mobile Creative:

<http://www.aboutads.info/resources>

Example 1:  
In-App, In-Ad



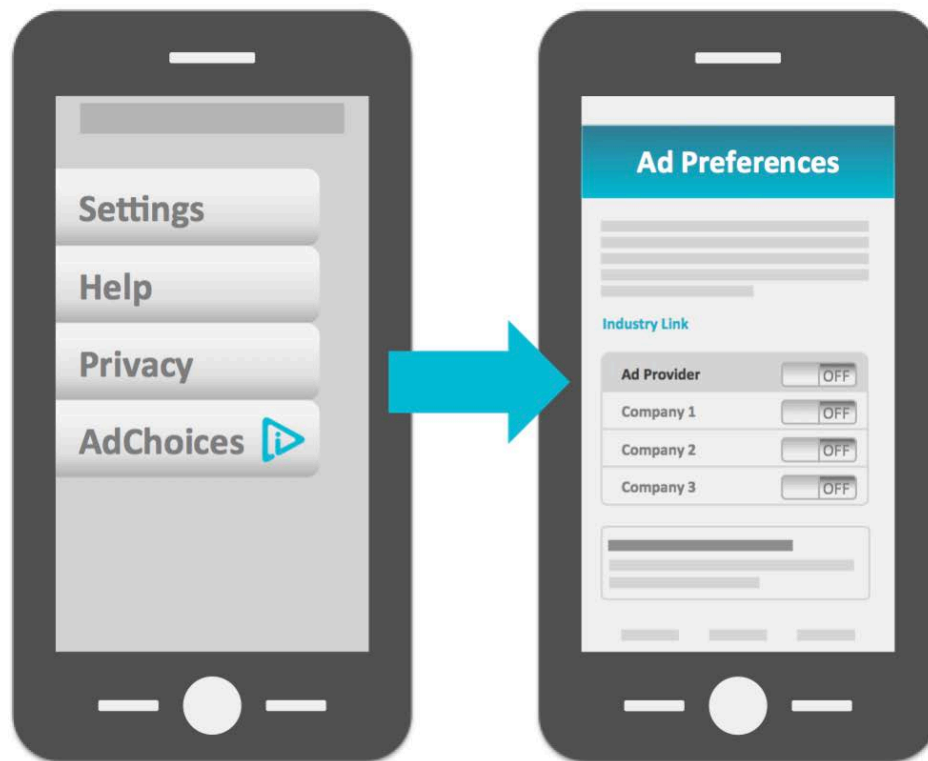
More examples and use cases in *DAA Creative Ad Spec for Mobile*

# Mobile Specifications for Use of the DAA 'Your Ad Choices' Icon

How to Deploy the DAA Icon in Mobile Creative:

<http://www.aboutads.info/resources>

Example 2:  
In-App in settings



More examples and use cases in *DAA Creative Ad Spec for Mobile*

# Mobile Web Guidance from the DAA Creative Ad Spec

Example 3:  
Mobile Web  
in Footer

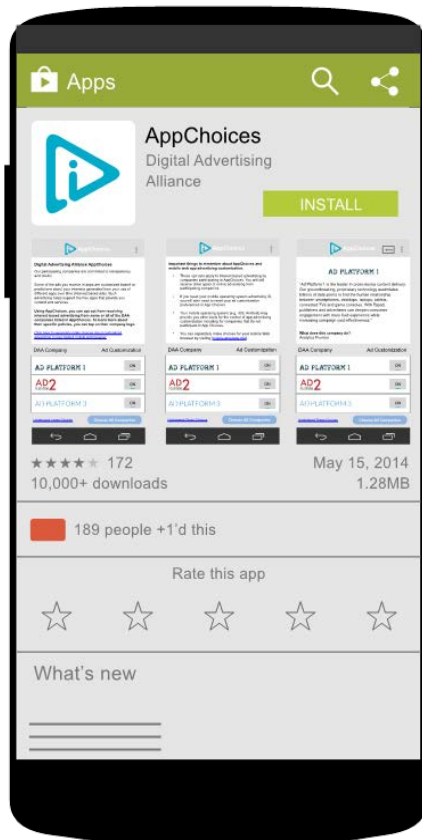




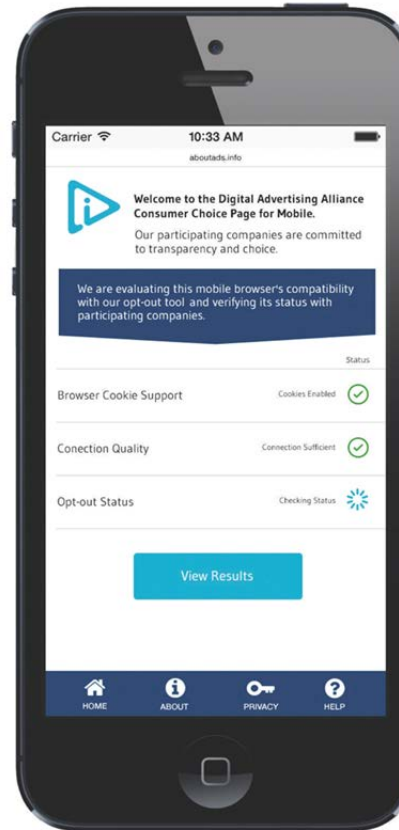
# DAA Choice In Mobile – LIVE!

AppChoices

Consumer Choice Page  
for Mobile Web



+



=

User  
Choice  
in  
Multi-  
Screen  
Platforms



**Mobile Privacy Enforcement Comes**

**September 1, 2015**

# Accountability Snapshot: CBBB & DMA

- Together, CBBB and DMA have responded to more than 25,000 consumer complaints
- CBBB highlights:
  - 58 formal inquiries, which are publicly available, including 33 Decisions and 21 Administrative Dispositions and Closures
  - Publicly available compliance guidance to clarify: First Party responsibilities, native interest-based ads, and cookieless IDs
  - Confidentially counseled hundreds of companies on compliance
  - Reviewed more than 30,000 websites for compliance by first and third parties on a range of issues
  - Only 1 referral to government agency necessary for company that would not participate in compliance process

# ASRC Self-Regulation: Components

- Created by the leading Advertising Trade Associations to Promote Truthful and Ethical Advertising Practices
- Independently administered by the Better Business Bureau, under ASRC Board's policy guidance
  - *National Advertising Division (1971)*
  - *Children's Advertising Review Unit (1974)*
  - *Electronic Retailing Self-Regulatory Program (2004)*
  - *Online Interest-Based Advertising Accountability Program (2011)*

# ASRC Accountability Program Compliance Investigations

- Staff monitoring of companies in the cross-industry interest-based advertising ecosystem
- Privacy Dashboard generated weekly
- Confidential complaints from multiple sources
- Expert consultants on specific compliance issues

## Accountability Principle for Mobile Data

### Hallmarks of ASRC's Accountability Program:

- Independence
- Monitoring of entire ad ecosystem
- Transparency & public reporting of formal inquiries
- Confidential counseling
- Educate industry and consumers

Mission is to bring companies into compliance and build marketplace trust in digital advertising

# Accountability Program Precedent Applies

Same Philosophy:  
Enhanced Notice  
and Consumer  
Choice  
Accountability



Special  
Implementation  
Issues:  
Precise  
Geolocation &  
Personal Directory  
Data

Mobile Guidance adapts the IBA Principles  
to the mobile landscape.

# Transparency Principle: Innovative Just-in-Time Notice of IBA

- Notice delivered to website visitors in real time: **“enhanced notice”**
- Takes notice out of the privacy policy as FTC recommends
- Enhanced notice helps CBBB fulfill its mission of building marketplace trust through transparent business practices
- By working together, first and third parties ensure consumers have notice when data is collected and used for IBA
- Because third parties generally have best access to space on webpage or app where ad loads, they usually provide enhanced notice in or near interest-based ads
- Because first parties generally control the rest of the webpage or app where third parties are collecting data for IBA, they usually provide enhanced notice on each page or app where third parties are collecting data for IBA

# How First Parties Provide Enhanced Notice

Enhanced notice link where third parties are collecting data for IBA.

Clicking on the enhanced notice link should take consumers to the website's disclosure of third-party IBA activity and accompanying link(s) to an easy-to-use consumer choice mechanism.

This link must be a **separate link, not just the same link it provides to its privacy policy.**

If the disclosure of third-party IBA activity is located in the website's privacy policy, the enhanced notice link should go **directly to the place in the privacy policy where the disclosure is located**, not just generally to the privacy policy.

State your adherence to the DAA Principles.

The screenshot shows a web browser address bar with the URL [www.housebeautiful.com](http://www.housebeautiful.com). Below the address bar are social media sharing icons for Twitter, Pinterest, Google+, and Email, followed by a 'More Options' link. A red arrow points from the 'More Options' link to the 'About' section of the page. The 'About' section is titled 'About' and contains a link 'Why did I get this ad?'. Below this link is a section titled 'Ad Choices' with a play button icon. The 'Ad Choices' section contains text explaining that Hearst Digital Media works with online advertising companies to provide relevant and useful advertising. A second red arrow points from the 'Why did I get this ad?' link to the 'Ad Choices' section. The 'Ad Choices' section also includes a sub-section titled 'For Consumers' with a link to 'Learn about Online Behavioral Advertising'.

www.housebeautiful.com

Twitter Pinterest Google+ Email More Options

All Rights Reserved. Being Green | Why did I get this ad?

**RS** home design network  
A Part of Hearst Digital Media

## About

### Why did I get this ad?

#### Ad Choices

Hearst Digital Media works with online advertising companies to provide you with relevant and useful advertising. Some of the online ads you are served may be based on the content of the Web page you're visiting; some others may be based on registration information you provide; and other ads may be customized based on predictions about your interests generated from your visits to other Web sites.

#### For Consumers

**Learn about Online Behavioral Advertising:** If you're an online user, you can find out more about online behavioral advertising and how it helps provide you with more relevant advertising on the websites you visit. You'll learn how online advertising supports the free content, products and services you use online; what



Browser window: <http://www.ziffdavis.com/> | Ziff Davis

**BuyerBase**

**ZIFF DAVIS B2B FOCUS**

**LOGICBUY™**

**geek.com**

**EXTREME TECH**

**appscout**

September 16, 2011  
**PCMag, Geek & ExtremeTech now available on Pulse**

September 6, 2011  
**PCMag.com Names The Fastest ISPs in the U.S.**

August 26, 2011  
**Results of E-Reader & Tablet Readers' Choice Awards Released**

**BuyerBase: Targeting in-market tech buyers**

**Discover the PCMag Testing Labs**

@onyx550 hey, @samaralynn should be able to help you with that

logitebuy  
Get 84% off this Canon D480 Laser Printer - only \$219 plus Free Shipping. Limite...

PCMag  
Google Wallet launches in the U.S.: Here Is Why It's A Big Deal  
<http://t.co/pWZCeDs...>

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# ASRC: Formal Inquiry and Decision



The Accountability Program's process is confidential but the results of its formal inquiries are transparent. They are published online accompanied by a press release.

**BUT...**

Company requests for guidance before formal inquiries remain confidential.

Three overlapping document images are shown. The top document is titled "ADVERTISING SELF-REGULATORY COUNCIL/COUNCIL OF BETTER BUSINESS BUREAUS" and "ONLINE INTEREST-BASED ADVERTISING ACCOUNTABILITY PROGRAM". It is a "FORMAL REVIEW" with "Case Number: 16-2012". The middle document is titled "ADVERTISING SELF-REGULATORY COUNCIL/COUNCIL OF BETTER BUSINESS BUREAUS" and "ONLINE INTEREST-BASED ADVERTISING ACCOUNTABILITY PROGRAM". It is a "FORMAL REVIEW" with "Case Number: 27-2013". The bottom document is a press release titled "Accountability Program Decisions Throw Spotlight on Website Operators' Compliance". It mentions "BMW and Scottrade Implement DAA's Transparency and Choice Requirements on their Websites" and "Arlington, VA - Nov. 18, 2013". The press release text states: "Continuing its recent focus on website operators' obligations under the Self-Regulatory Principles for Online Behavioral Advertising (OBA Principles), today the Online Interest-Based Advertising Accountability Program (Accountability Program) released the results of formal inquiries into the practices of Scottrade, Inc. (Scottrade) and BMW of North America, LLC (BMW). The Accountability Program found that while the companies were already complying with the in-ad notice requirements of the OBA Principles, they were not yet fulfilling the OBA Principles' requirements for Transparency and Consumer Control on their websites. The companies agreed to implement the Accountability Program's recommendations and have updated their websites. 'Today's Decisions once again emphasize the importance of providing consumers with Transparency and Consumer Control, the cornerstones of the OBA Principles, on the websites they visit,' said Genie Barton, Council of Better Business Bureaus VP and Director of the Accountability Program. 'The OBA Principles are". The right side of the press release image contains a "Follow Us!" section with icons for Facebook, Twitter, RSS, and YouTube, and an "ASRC Digests" section with icons for Cosmetics, Dietary Supplements, Environmental, and Social Media.

# Case Review: First Party Websites

- Accountability Program reviewed numerous websites for compliance with Transparency requirements of IBA Principles (Section II.B):
  - IBA Disclosure
  - Enhanced Notice
  - Links to opt outs of **all** third parties collecting data *or* to industry-developed opt out: [aboutads.info/consumer](http://aboutads.info/consumer)
  - Statement of Adherence

# Website Compliance Warning: The Missing Link

- Website Compliance Warning issued in Oct. 2013 to help otherwise compliant companies understand shared responsibility for notice of collection for IBA:  
<http://www.asrcreviews.org/wp-content/uploads/2013/10/Accountability-Program-First-Party-Enhanced-Notice-Compliance-Warning-CW-01-2013.pdf>
- Suspended enforcement of enhanced notice of third party collection until January 1, 2014
- Gave companies time to ask questions and gear up to provide enhanced notice

## Formal Reviews: Non-Compliant First Parties

- BMW & Scottrade: Neither company fulfilled any of the first-party requirements in the Principles, so case resulted in Decision
- Volkswagen: Volkswagen's website lacked compliance but company had taken substantial steps to come into compliance prior to the Accountability Program's formal inquiry, so case resulted in an Administrative Disposition

# Website Compliance Warning Review

- Since January 1, 2014, the Accountability Program has released the results of nine first party compliance warning review cases:

May 14, 2015

- Etsy
- Imgur
- TWiT.tv
- 247 Sports

Oct. 28, 2014

- Answers Corporation
- Best Buy
- BuzzFeed
- Go.com
- Yelp

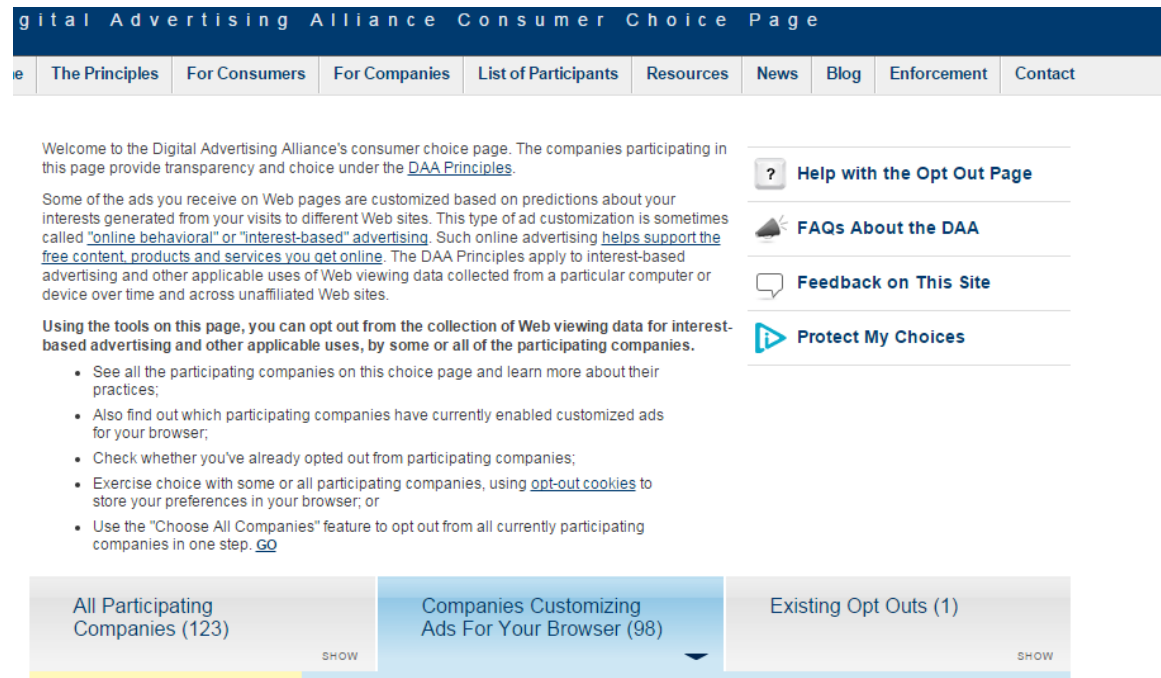
- The Accountability Program continues to review thousands of websites for potential compliance issues involving multiple issues

# Consumer Control Principle: First Parties Have ‘Choice’

You have three ways to give consumers a link to an “easy-to-use” opt-out mechanism:

List all third parties collecting data on your website and provide a link to each.

Link to a list of companies provided by a commercial provider on their out page.



The screenshot shows the Digital Advertising Alliance Consumer Choice Page. At the top is a dark blue navigation bar with the title "Digital Advertising Alliance Consumer Choice Page" and a menu with links: "The Principles", "For Consumers", "For Companies", "List of Participants", "Resources", "News", "Blog", "Enforcement", and "Contact". Below the navigation bar is a welcome message: "Welcome to the Digital Advertising Alliance's consumer choice page. The companies participating in this page provide transparency and choice under the [DAA Principles](#)." This is followed by a paragraph explaining that some ads are customized based on predictions about user interests, and that the DAA Principles apply to interest-based advertising. A section titled "Using the tools on this page, you can opt out from the collection of Web viewing data for interest-based advertising and other applicable uses, by some or all of the participating companies." lists five actions: seeing all participating companies, finding out which companies have customized ads, checking if already opted out, exercising choice with some or all companies, and using the "Choose All Companies" feature. On the right side, there are four links: "Help with the Opt Out Page", "FAQs About the DAA", "Feedback on This Site", and "Protect My Choices". At the bottom, there are three boxes: "All Participating Companies (123)" with a "SHOW" link, "Companies Customizing Ads For Your Browser (98)" with a dropdown arrow, and "Existing Opt Outs (1)" with a "SHOW" link.

Digital Advertising Alliance Consumer Choice Page

[The Principles](#) [For Consumers](#) [For Companies](#) [List of Participants](#) [Resources](#) [News](#) [Blog](#) [Enforcement](#) [Contact](#)

Welcome to the Digital Advertising Alliance's consumer choice page. The companies participating in this page provide transparency and choice under the [DAA Principles](#).

Some of the ads you receive on Web pages are customized based on predictions about your interests generated from your visits to different Web sites. This type of ad customization is sometimes called "[online behavioral](#)" or "[interest-based](#)" advertising. Such online advertising [helps support the free content, products and services you get online](#). The DAA Principles apply to interest-based advertising and other applicable uses of Web viewing data collected from a particular computer or device over time and across unaffiliated Web sites.

Using the tools on this page, you can opt out from the collection of Web viewing data for interest-based advertising and other applicable uses, by some or all of the participating companies.

- See all the participating companies on this choice page and learn more about their practices;
- Also find out which participating companies have currently enabled customized ads for your browser;
- Check whether you've already opted out from participating companies;
- Exercise choice with some or all participating companies, using [opt-out cookies](#) to store your preferences in your browser; or
- Use the "Choose All Companies" feature to opt out from all currently participating companies in one step. [GO](#)

[? Help with the Opt Out Page](#)

[FAQs About the DAA](#)

[Feedback on This Site](#)

[Protect My Choices](#)

All Participating Companies (123) [SHOW](#)

Companies Customizing Ads For Your Browser (98)

Existing Opt Outs (1) [SHOW](#)

Link to industry-developed choice page such as [www.AboutAds.info](http://www.AboutAds.info) which gives consumers granular choice or a one-stop opt out from 123 third parties.



# Application in the Mobile App Environment

- First Parties have enhanced notice responsibilities only when they have specifically authorized third-party collection on their app
- Multiple ways to provide disclosure link (before app is installed, upon download, first opening of app, first collection of cross-app data)
  - Link to IBA disclosure, point to opt-out such as DAA's AppChoices, and include statement of DAA Principles adherence
- Special Responsibilities
  - Consent before transfer of location data to third parties and for personal directory data collection and use
  - Explanation on how to withdraw consent



# Enforcement Priorities for Mobile

- Notice and choice for precise geolocation data and personal directory data
- **Ask yourself:**
  - **Do I collect precise geolocation data (granular enough to locate the device)?**
  - **Do I collect any user-generated data like contacts, calendars, photos, or videos?**
- If yes, give consumers notice: before download, on installation, or on first opening app
- Make sure consumer takes an affirmative action to signal consent

# Wrap Up: Your Mobile 'To Do' List – First Parties

Enhanced Notice: When you know third parties are collecting data for IBA on your app -- coordinate with third parties:

**Ask yourself: Is there an enhanced notice link and does it take the consumer to a disclosure that contains:**

- **A meaningful description of Third-Party IBA?**
- **Adherence to DAA Principles?**
- **Does the disclosure point to an opt-out such as the DAA AppChoices App?**

Special First-Party Responsibilities: Notice, Enhanced Notice, and Choice for personal directory data and transfer of precise location data must be provided by the First Party itself

# Recap: Your Website Checklist – First Parties

**Notice:** In Privacy Policy, Elsewhere on Web Site(s),

- Is there a meaningful description of Third-Party IBA
- Does the notice state adherence to DAA Principles?
- Is there a link to an opt-out?

**Enhanced Notice:** Found on Every Page Where Data is Collected for an IBA Ad

- Does it appear in the footer or prominently elsewhere (a First Party may allow Third Parties to place the link, but this is unusual)?
- Is the link separate from the privacy policy link?
- Does it go to a specific IBA data collection description, and is an opt-out available?

# Wrap Up: Your Mobile 'To Do' List – All Parties

- ✓ Mark your calendar! DAA Mobile Guidance Enforcement will take effect **September 1, 2015**
- ✓ Get familiar with DAA Mobile Guidance
- ✓ Assess and document your mobile ad supply chain
- ✓ Audit your own mobile data collection and use throughout the supply chain, and know what is cross-site, cross-app data
- ✓ Understand your role and obligations as a First and/or Third Party

# Ask Now | Ask Now | Ask Now...

- **Lou Mastria, CIPP, CISP** |  
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