

European Self-regulation for Online Behavioural Advertising – Transparency and Control for Consumers

IAB Europe and its members have worked on a “European Framework for Online Behavioural Advertising” that will increase transparency and control for Online Behavioural Advertising. This signatory-based Online Behavioural Advertising Framework of IAB Europe (herein referred to as the ‘OBA Framework’) is an integral part of the European Advertising Standards Alliance’s (‘EASA’) comprehensive self-regulatory Best Practice Recommendation (‘BPR’) for Online Behavioural Advertising. The BPR incorporates and complements the principles included in the OBA Framework.

The OBA Framework and the BPR bring new means for the interaction of companies with consumers and establish new standards for transparency and user control for Online Behavioural Advertising (‘OBA’). Those standards incorporate a number of principles that will radically change the way consumers are informed and empowered to make meaningful choices about the use of OBA. OBA relates to the collection of online data in order to facilitate the delivery of advertising based on the potential preferences or interests of web users or to advertise a product users have shown interest in previously (so-called re-targeting)¹. Such adverts typically are more relevant for consumers and enhance their experience by providing adverts tailored to their potential interests.

The OBA Framework and the BPR recognise that when consumers visit a website they will not necessarily be aware that it is possible for another company (defined as ‘Third Party’ under the OBA Framework) to provide advertising and collect web viewing data from the consumers’ Personal Computer (PC) (or any other device) over time. Such collection aims at improving the relevance of adverts for consumers. The proposed OBA Framework and the BPR will be implemented in a manner that would introduce a uniform pictogram (‘icon’) across the European countries (EU & EEA).

Once clicked on, the icon would show more information about some or all of companies involved in providing this advert in *simple layman’s language*. In addition, consumers will be given easy access to the ‘OBA User Choice Site’ (www.youronlinechoices.eu) that provides information about OBA and the possibility for users to turn off OBA if they desire to do so. In this case, consumers will still receive adverts but not ones that have taken into account their potential interests based on previous web surfing behaviour.

¹ Online Behavioural Advertising means the collection of data from a particular computer or device regarding web viewing behaviours over time and across multiple web domains not under Common Control for the purpose of using such data to predict web user preferences or interests to deliver online advertising to that particular computer or device based on the preferences or interests inferred from such web viewing behaviours. Online Behavioural Advertising does not include the activities of Web Site Operators, Ad Delivery or Ad Reporting, or contextual advertising (e.g. advertising based on the content of the web page being visited, a consumer’s current visit to a web page, or a search query).

This notification mechanism will be complemented by obligations for web sites (defined as 'Web Site Operators' in the OBA Framework): Web sites that have OBA companies on their sites can provide a clear notice in their privacy notice about it and include a link to the OBA User Choice Site to facilitate user interaction.

The OBA Framework also clarifies that if a company uses technologies that are intended to collect all or substantially all URLs (i.e. Websites visited by a consumer) on a PC (or any other device) and uses such data for OBA it will need the consumer's explicit consent for this.

The OBA Framework establishes a high standard for 'sensitive segments' by requiring a user's explicit consent if sensitive personal data is collected (as defined by European Data Protection law). Furthermore, it prohibits the creation of OBA segments to specifically target children age 12 or under.

Through an innovation in self-regulation, the OBA Framework introduces a new procedure to measure compliance with the commitments and establishes a system of pan-European enforcement for signatory companies. Compliant companies will receive a periodically renewable B2B 'seal'.

Should a company fall behind and not remedy a significant breach of its obligations within a limited timeframe, the seal would be removed. As a consequence, this failure will be communicated to the market and the public. In the UK, the IASH programme² has proven that the removal of such a seal has significant effects on the market and is therefore an effective sanction, strong enough to enforce compliance.

Signatories must choose a compliance programme provider that can demonstrate expertise in online measurement and / or auditing. Compliance providers will be chosen through a competitive tender carried out by IAB Europe, which will be published in 2011. Signatories signing this OBA Framework have to self-certify their obligations under this Framework and adopt the icon by June 2012. The compliance provider will then conduct an audit to confirm compliance with the obligations under the OBA Framework. Compliant companies will be granted the B2B seal which will demonstrate to business partners that the signatory is part of the self-regulation system.

The BPR incorporates a set of requirements which have been established under the OBA Framework; these are binding for all signatories of the OBA Framework and will be complemented by a comprehensive industry wide compliance and enforcement programme.

This will ensure that the commitments are met in practice and puts processes in place to cover the entire advertising ecosystem and to handle consumers' complaints, through EASA's Best Practices. This 'double-enforcement' mechanism ('EASA PLUS') ensures that complaints of consumers are addressed in an adequate

² IASH was created in the UK to encourage best practice among the online advertising ecosystem through an effective code of conduct. The Code ensures that display ads placed via their networks do not appear on websites which could jeopardize advertisers' brands. See: http://www.iash.org.uk/AboutIASH/204359/the_role_of_iash.html

manner and that non-compliant companies are brought into compliance by proven sanction mechanisms.

Close cooperation on compliance with the EASA network of self-regulatory organisations (SROs) will be crucial. Whereas complaints may be filed by consumers with a variety of bodies (national IABs, signatories' compliance programmes, consumer groups, authorities), EASA's SROs are a well-known and trusted route for consumers to obtain independent complaints handling and redress. This partnership of compliance programmes brings two primary benefits to the system:

- i. For non-signatories of the OBA Framework, EASA's recognised self-regulatory Best Practice Recommendation will cover companies that are not bound by the compliance and enforcement provisions of the OBA Framework;
- ii. For signatories of the OBA Framework, EASA SROs will provide a further and independent recourse for consumers to take their complaints should they remain dissatisfied.

Administrators of the OBA Framework compliance and enforcement programmes should ensure effective coordination with EASA SROs and vice versa as well as with any other organisations receiving consumer complaints. This will ensure transparency, consistency and coherence of the implementation and enforcement across EU and EEA Member States.

About the supporters of the OBA Framework and the BPR

The industry-wide effort to develop consumer-friendly standards for OBA activities across the Internet was actively supported by a coalition of IAB Europe and Europe's key advertising associations and supported by the European Advertising Standards Alliance (EASA) and its network of self-regulatory organisations. This unprecedented collaboration responds to European Commission Vice President Kroes's call to the industry to develop self-regulatory practices for OBA.

FAQs

What is online behavioural advertising (“OBA”)?

OBA is defined in the OBA Framework and the BPR as the “the collection of data from a particular computer or device regarding Web viewing behaviours over time and across multiple Web domains not under Common Control ³ for the purpose of using such data to predict consumer preferences or interests to deliver online advertising to that particular computer or device based on the preferences or interests inferred from such Web viewing behaviours.” That definition also includes “re-targeting”, where users showing an interest in one specific product or product category on one particular web site, are served advertising for that product or product category on other websites.

“Behavioural” describes the type of data that is collected – typically data such as page views and clicks made by the user. “Behavioural” advertising therefore relies on users’ behaviour rather than on their identity.

OBA is typically done by linking a pattern of behaviour to a “segment”, or interest category. The set of “segments” to which a user’s behavioural data is associated could be described as a behavioural advertising profile. Such profiles do not contain personal data.

Does the OBA Framework cover all online advertising?

No. The OBA Framework covers only those activities that are defined as OBA and does not include:

- Activities of Web Site Operators that are limited to their own sites or sites controlled by them.
- Contextual advertising, which is advertising based on the content of the web page being visited, a consumer’s current visit to a web page, or a search query. Such advertising does not rely on the use of “segments”.

Why did IAB Europe develop the OBA Framework?

IAB Europe together with the leading European trade associations in the advertising ecosystem initiated a comprehensive, self-regulatory effort to develop and implement consumer-friendly principles and enforcement standards regarding OBA. OBA has the potential to generate higher revenues for websites such as e.g. content providers that are necessary to finance the offers users enjoy often for free. According to McKinsey, European consumers used ad funded online services to a value equivalent to €69 billion for 2010 ⁴. The objective of this initiative is to secure the

³ Entities or Web sites under Common Control include ones which Control, for example parent companies, are controlled by, such as subsidiaries, or are under common Control, such as group companies. They also include entities that are under a written agreement to process data for the controlling entity or entities, and do such processing only for and on behalf of that entity or entities and not for their own purposes or on their own behalf.

⁴ Consumers driving the digital uptake; The economic value of online advertising based services for consumers Sep 2010 IABEurope/Mckinsey.

future of this type of business practice by ensuring that consumers can understand and control it.

The OBA Framework principles provide for:

- **Education** for consumers and businesses about OBA and the OBA Framework;
- **Transparency** about data collection and use practices associated with OBA, providing consumers with clear, meaningful and prominent notice through multiple mechanisms;
- **Consumer Control** over OBA;
- Appropriate **Data Security** for, and limited retention of, data collected and used for OBA purposes;
- Limitations on the creation of segments to specifically target children;
- Limitations on the collection of **Sensitive Personal Data** collected and used for OBA;
- **Compliance and Enforcement** mechanisms to ensure the effectiveness of the OBA Framework.

How do I know if the activities of my company are covered by the Principles?

The OBA Framework applies only to those entities engaged in OBA. (Not all online advertising is considered OBA.)

While the OBA Framework and the BPR are intended to apply broadly across a wide range of marketing and media entities, they focus on:

- **“Website Operators”**: such as Web site publishers / operators;
- **“Third Parties”**: such as advertising networks and data companies (including ad exchanges and data aggregators) and in some cases advertisers;

These types of entities work interdependently to deliver relevant advertising to specific computers or devices in ways that enrich the consumer online experience. The OBA Framework also covers technologies that are intended to collect all or substantially all URLs (Websites) that a PC (or any other device) traverses and uses such data for OBA. This could include tools and software like toolbars, Internet browsers, desktop applications or similar technologies.

A company’s actions are governed by the relevant OBA Framework and the BPR obligations related to the particular role or roles it fulfils in collecting and using data for OBA purposes.

For example, an entity can be a Web Site Operator through its provision of content or retail products on its web site. It could also be a Third Party by virtue of serving advertisements on multiple Web sites it doesn’t control as an ad-network or data company or in some cases an advertiser.

What is the ‘icon’? What does it mean?

The ‘icon’ is a specific interactive symbol, which is placed in or around an OBA ad that, together with wording to be developed, has to be used by Third Parties to signify their adherence to the OBA Framework. It provides access to information and

controls for consumers, and does so powerfully because it is done *contextually* – i.e. in a context (the advert) where the consumer will intuitively understand it.

Third Parties serving behavioural advertising will use this icon in or around advertisements, or on the web pages where data is collected and used for behavioural advertising. The icon will link to user-friendly information regarding the data collection and use practices associated with that advert and an easy-to-use consumer control tool on the OBA User Choice Site www.youronlinechoices.eu. Web pages where OBA data is collected can also use the ‘icon’, or another appropriate notice, to link to the disclosures and choice options provided by the OBA Framework and the BPR.

The icon should not be confused with the B2B seal, which focuses on businesses. The B2B seal confirms that a company’s business partners are “part of the OBA self-regulatory system”.

How will consumers know about this?

IAB Europe, the advertising ecosystem and consumer groups will carry out an online educational campaign to educate users about OBA, what the new icon means, the choices this OBA Framework and the BPR provide and how consumers can exercise their choices.

This collaborative, industry-wide effort is supported by the entire European advertising ecosystem, represented by the following associations:

Advertising Information Group (AIG)
Association of Commercial Television (ACT)
Association of European Radios (AER)
Association of Television and Radio Sales Houses (egta)
European Association of Communications Agencies (EACA)
European Association of Directory and Database Publishers (EADP)
European Federation of Magazine Publishers (FAEP)
European Newspaper Publishers’ Association (ENPA)
European Publishers’ Council (EPC)
European Sponsorship Association (ESA)
Federation of European Direct and Interactive Marketing (FEDMA)
Interactive Advertising Bureau (IAB-Europe)
International Advertising Association (IAA)
JCDecaux (for urban outdoor)
World Federation of Advertisers (WFA)
Online Publishers Association (OPA)