

Accountability Program Issues

Six Decisions on OBA Practices

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Last week, the [Online Interest-Based Advertising Accountability Program](#) announced the results of inquiries it had conducted to determine whether six companies were in compliance with the [Self-Regulatory Principles for Online Behavioral Advertising](#).

In addition to requiring in-ad notice about OBA, the Principles require, among other things, that website operators provide a clear explanation of their OBA practices (the “Transparency Principle”) and access to the opt-out mechanisms of third parties engaged in OBA on their sites (the “Consumer Control” Principle). Each of the inquiries focused on these two principles.

- **Scottrade and BMW:** On November 18, the Accountability Program announced the results of inquiries involving [Scottrade](#) and [BMW of North America](#). The Accountability Program found that while the companies were in compliance with the in-ad notice requirements, they were not complying with the Transparency and Consumer Control Principles. Both companies agreed to implement the Accountability Program’s recommendations.
- **Volkswagen:** The same day, the Accountability Program announced the results of an inquiry involving [Volkswagen of America](#). VW had complied with the in-ad notice requirements, but not with the Transparency and Consumer Control Principles. Because VW was in the process of addressing these deficiencies at the time of the inquiry, the Accountability Program closed the case via an administrative disposition.
- **23andMe, 3Q Digital, and MediaMath:** On November 20, 2013, the Accountability Program released three decisions resolving inquiries into whether an OBA campaign for [23andMe](#) provided Transparency and Consumer Control. The campaign was managed by 23andMe’s digital marketing agency, [3Q Digital](#), who used a demand-side platform provided by [MediaMath](#) (on a self-serve basis) to manage the campaign. Each of the companies assumed one of the others was in charge of complying with the Self-Regulatory Principles, but none actually did. The companies agreed to implement the Accountability Program’s recommendations.

The Accountability Program investigated the companies by using Evidon’s Ghostery — a tool that tells web users what trackers are present on sites — and by reading their privacy policies. Notably, the Accountability Program can conduct this type of investigation and initiate this type of inquiry against any company that engages in OBA, regardless of whether that company pledges allegiance to the DAA or other self-regulatory organization. We’re likely to see more of these inquiries in the coming months so, if your company engages in OBA, you should ensure that you comply with the Principles.