

BBB Accountability Program Issues Warning to Online Interest-Based Advertisers

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Last Thursday, the BBB's Online Interest-Based Advertising Accountability Program issued a [compliance warning](#), reminding online advertisers that its privacy code applies across devices and platforms and that the Accountability Program will enforce the code's principles irrespective of the technology the advertiser uses to collect consumer activity and serve interest-based ads.

In the warning, the Accountability Program acknowledges widespread use of new, cookie-less identification technologies that advertisers have developed in order to deliver interest-based ads across platforms and devices, due in part to the inability to use cookies on all platforms and devices. However, the Accountability Program strongly disagrees with the position that the novel privacy issues these technologies present cannot be addressed through existing regulations and self-regulatory programs. In support of its position, the Accountability Program points to its precedent – a 2012 decision against BlueCava, as well as the FTC and NAI enforcement actions against Epic Marketplace. In the BlueCava decision, the Accountability Program asked the company to clarify in its privacy policy that its opt-out was effective only on the device on which the consumer exercised the opt-out option, and to develop a cross-device opt-out for its new technology, noting “Companies’ commitment to applying the OBA Principles to their new technologies will ensure that the OBA Principles continue to evolve along with technological advances.” In 2013, the FTC entered into a settlement agreement with Epic Marketplace, resolving allegations that the company employed “history-sniffing” technology to collect consumers’ browser history, which included sensitive data, without their knowledge or consent. NAI, in 2011, had found this practice a violation of the NAI Code and NAI policies and, as a result, requires Epic to undergo annual audits.

Developed in 2009, by leading industry associations, the seven OBA Principles are intended to make online behavioral advertising more consumer-friendly, giving consumers knowledge of and control over the information collected about them. The [Principles](#) are (1) education, (2) transparency, (3) consumer control, (4) data security, (5) material changes, (6) sensitive data, and (7) accountability. It is important for advertisers engaged in online behavioral advertising to ensure compliance with these Principles, regardless of the technology and platform or device used.