

G-Regs™

ICC– OBA provisions



Full title: Extract of the Online Behavioural Advertising (OBA) rules from the 2011 International Chamber of Commerce (ICC) Code of Advertising and Marketing Communication Practice

Title of relevant section: Provisions for Online Behavioural Advertising (OBA)

Chapter: Chapter D Digital Marketing Communications

Article: **D7. Provisions for online behavioural advertising (OBA)**

Scope

The following applies to OBA focusing on web viewing behaviour over time and across multiple web domains as practiced by third parties in order to create interest segments (a collection of users that share one or more attributes based on prior and current online browsing activity) or to associate such viewing behaviour against interest segments for the purposes of delivering advertisements to and by that web user's interests and preferences.

These provisions do not apply to advertising focused on web viewing behaviour for a particular website or affiliated websites as practiced by a website operator or first party (or those entities acting on behalf of a website operator or first party). For example, the provisions do not apply to the data collection and use practices for an online magazine or retail site when the data is solely for these sites' or their affiliates' own purposes.

These provisions are intended to apply to all individuals and entities engaged in such activities online.

Definition of terms specific to OBA provisions:

- The term "online behavioural advertising" or "OBA" refers to the practice of collecting information over time on users' online actions on a particular device across different unaffiliated websites in order to create interest segments or to allocate such viewing behaviour against interest segments for the purposes of delivering advertisements to and by that web user's interests and preferences. OBA does not include the activities of website operators, quantitative ad delivery or quantitative 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).

-
- In the context of OBA, the term “third party” refers to an entity that engages in OBA on a non-affiliated website. This is in contrast to a “website operator” or “first party” which is the owner, controller or operator of the website, including affiliated sites, with which the web user interacts.
 - The term “explicit consent” means an individual’s freely given specific and informed explicit action in response to a clear and conspicuous notice regarding the collection and use of data for online behavioural advertising purposes.

Application of notice and choice provisions

Any third party participating in OBA should adhere to principles of notice and user control as set out below. Transparency of data information collection and use, and the ability for users and consumers to choose whether to share their data for OBA purposes is vital. The following guidance provides further clarification for how these principles apply to OBA.

Examples of how third parties, and where applicable website operators, can provide notice of the collection of data for OBA purposes include mechanisms like an icon that links to a disclosure either in or around the advertisement delivered on the web page where data for OBA purposes is collected or somewhere else on the web page; or through a web link to an industry- developed website(s) where third parties are individually listed.

Article:

D7.1 Notice

Third parties and website operators should give clear and conspicuous notice on their websites describing their OBA data collection and use practices. Such notice should include clear descriptions of the type of data and purpose for which it is being collected and an easy to use mechanism for exercising choice with regard to the collection and use of the data for OBA purposes.

Notice should be provided through deployment of one or multiple mechanisms for clearly disclosing and informing Internet users about data collection and use practices. *(Examples of how third parties, and where applicable website operators, can provide notice of the collection of data for OBA purposes include mechanisms like an icon that links to a disclosure either in or around the advertisement delivered on the web page where data for OBA purposes is collected or somewhere else on the web page; or through a web link to an industry-developed website(s) where third parties are individually listed).*

Article:

D7.2 User control

Third parties should make available a mechanism for web users to exercise their choice with respect to the collection and use of data for OBA purposes and the transfer of such data to third parties for OBA. Such choice should be available via a link from the notice mechanisms described in footnote 9.

Those collecting and using data via specific technologies or practices that are

intended to harvest data from all or substantially all websites traversed by a particular computer or device across multiple web domains, and use such data for OBA, should obtain a user's explicit consent. Web users should be provided with an easy to use mechanism for web users to withdraw their explicit consent to the collection and use of such data for OBA.

Article:**D7.3 Data security**

Appropriate physical, electronic, and administrative safeguards to protect the data collected and used for OBA purposes should be maintained at all times.

Data that is collected and used for OBA should only be retained for as long as necessary for the business purpose stated in the explicit consent.

Article:**D7.4 Children**

Segments specifically designed to target children 12 and younger for OBA purposes should not be created.

Article:**D7.5 Sensitive data segmentation**

Those seeking to create or use such OBA segments relying on use of sensitive data as defined under applicable law should obtain a web user's explicit consent, prior to engaging in OBA using that information.

Article:**D8. Responsibility**

Anyone taking part in the planning, creation or execution of digital marketing communications including OBA, has a degree of responsibility, as defined in article 23 of the General Provisions, for ensuring the observance of the Code towards those affected, or likely to be affected.

The rapidly changing and developing nature of digital interactive media makes more detailed guidance impracticable and inappropriate. However, whatever the nature of the activity, responsibility is shared by all the parties concerned, commensurate with their respective role in the process and within the limits of their respective functions.
