

Full title of law or regulation

ICC ADVERTISING AND MARKETING COMMUNICATIONS CODE

<https://cms.iccwbo.org/content/uploads/sites/3/2018/09/icc-advertising-and-marketing-communications-code-int.pdf>

Title of relevant section

ARTICLE C22: PROVISIONS FOR INTEREST-BASED ADVERTISING (IBA)

Scope

The following applies to IBA focusing on web viewing behaviour over time and across multiple web domains or applications owned and operated by different unaffiliated entities 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 apply to all individuals and entities engaged in such activities online.

Definition of terms specific to IBA provisions:

- The term "interest-based advertising" or "IBA", and also referred to as "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 or applications 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. It pertains to advertising operations on desktop, in mobile, video or TV, social, or IoT settings, and include tracking and targeting across devices. IBA does not include 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 IBA, the term "third party" refers to an entity that engages in IBA on a non-affiliated website, service, or app (including, but not limited to, advertisers, ad exchanges, ad networks, and technology service providers). This is in contrast to a "website operator" or "first party" which is the owner, controller or operator of the website, including affiliated sites, service, or applications with which the web user interacts.
- The term "consent" means an individual's freely given, specific and informed indication 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 party participating in IBA should adhere to principles of notice and user control as set out below. Transparency of data collection and use, and the ability for users and consumers to choose whether to share their data for IBA purposes is vital. The following guidance provides further clarification for how these principles apply to IBA

C22.1 Notice<sup>10</sup>

Third parties and website operators should give clear and conspicuous notice on their websites describing their IBA 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 information on how consumers may exercise choice with regard to the collection and use of the data for IBA 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.<sup>10</sup> Examples of how third parties, and where applicable website operators can provide notice of the collection of data for IBA 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 IBA purposes is collected or somewhere else on the web page; or through a web link to an industry-developed website(s) where third parties

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are individually listed.

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#### C22.2 User control

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Third parties should make available a mechanism for web users to exercise their choice with respect to the collection and use of data for IBA. Such choice should be available via a link from the notice mechanisms described in footnote 9 (*Footnote 9 reads: The term 'minor' refers to those below the legal purchase age, i.e., the age at which national legislation permits the purchase or consumption of such restricted products. In countries where purchase age and consumption age are not the same, the higher age applies. For the purpose of this Article, in countries where there is no legal purchase or consumption age minors are defined as those below the age of 18. The meaning of this term has been derived from the definition provided in the ICC Framework for Responsible Marketing Communications of Alcohol. This is clearly an error. We have been in touch with the ICC on this issue.*)

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#### C22.3 Precise Location

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Precise location data is data that describes the precise location of a device derived through any technology that is capable of determining with reasonable specificity the actual physical location of an individual or device, such as GPS-level latitude/longitude coordinates or location-based frequency signal triangulation. Precise location data does not include general location data, such as postal code, city or neighbourhood, whether that data is derived from an Internet Protocol (IP) address or other sources.

Privacy disclosures should make clear the ways in which sites, apps, and services (including, for example, Application Programming Interfaces (APIs) and Software Development Kits (SDKs) available for use by third parties) access, use, and share precise geolocation data. Companies should also disclose all mechanisms through which location information is collected (e.g., Wi-Fi, Basic Service Set Identifier (BSSID)) and ensure that consumer choice related to collection of location data is never circumvented (by collecting Wi-Fi state, for example, when other location services are turned off).

After serving and delivering an IBA ad based on precise location data in real time, such data should be retained only for the purposes and periods specified at the time of collection.

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#### C22.4 Cross Device Tracking

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Disclosures and choices offered to consumers and to the first-party companies on whose websites and apps cross-device tracking companies appear should address the many forms of tracking used, including any proprietary techniques that combine technologies (e.g., cookies, fingerprinting, cookie syncing). These disclosures should also disclose tracking across multiple devices.

Users should not be led to believe tracking is more limited than it is, or that they have blocked all tracking across all apps, browsers and user devices when that is not the case. Companies should ensure that a consumer's opt-out on one device to prevent that device from receiving interest based ads should also prevent data from that device from informing interest based ads on other devices linked through cross-device linking. If the choices offered do not cover all the ways companies track consumers, then this should be clearly and prominently indicated.

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#### C22.5 Data security

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

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

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#### C22.6 Children

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Segments specifically designed to target children for IBA purposes should not be created without appropriate parental consent.

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#### C22.7 Sensitive data segmentation

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In general, companies should not create or use IBA segments based on sensitive data. Those seeking to create or use such IBA segments relying on the use of sensitive data as defined under applicable law should obtain a web user's—consent, prior to engaging in IBA using that information.

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