

**ADVERTISING SELF-REGULATORY COUNCIL/COUNCIL OF BETTER  
BUSINESS BUREAUS**

***ONLINE INTEREST-BASED ADVERTISING ACCOUNTABILITY PROGRAM***

**FORMAL REVIEW**  
Case Number: 16-2012

COMPANY: )  
Kia Motors America, Inc. )  
)  
)  
CHALLENGER: )  
Online Interest-Based )  
Advertising Accountability Program )  
)  
)

**DECISION**

DATE: September xx, 2012

**SYNOPSIS**

The Transparency Principle requires that consumers receive enhanced notice whenever they are served an advertisement based on interests inferred from their browsing history.

**COMPANY STATUS**

Kia Motors America (Kia or the company) is “the marketing and distribution arm of the Kia Motors Corporation based in Seoul, South Korea.”<sup>1</sup> Like many other advertisers, Kia works with advertising agencies and ad networks to run online interest-based ad campaigns that collect online behavioral advertising (OBA) data and provide interest-based ads to consumers on other

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<sup>1</sup> [www.kia.com/#/about/](http://www.kia.com/#/about/)

websites, as these terms are defined in the cross-industry Self-Regulatory Principles for Online Behavioral Advertising (OBA Principles).<sup>2</sup>

## **OBA PRACTICE AT ISSUE**

The OBA practice at issue is whether consumers were given notice and choice as required under the Transparency Principle whenever they received an interest-based Kia ad.

The Transparency Principle is designed to give consumers knowledge about OBA data collection and use practices that take place invisibly behind the scenes. One of the innovations provided by the Transparency Principle is the requirement for third parties such as ad networks to provide real-time notice, called “enhanced notice,” whenever the third party is collecting data for OBA or serving an OBA ad as part of an online advertising campaign.

Enhanced notice is provided through a “clear, meaningful and prominent link” (i.e., the “enhanced notice link”) from the Web page on which the third party is collecting data for OBA purposes or serving an advertisement based on user interests inferred from a user’s Web browsing activities.<sup>3</sup> The enhanced notice link directs the consumer to information about the third-party’s OBA data collection and use practices and an opportunity to exercise choice.<sup>4</sup> This enhanced notice is most often provided through the Digital Advertising Alliance’s (DAA) Advertising Option Icon (AdChoices Icon) which serves as the link to direct the consumer to an OBA disclosure and opt-out mechanism. Consumers can click on the AdChoices Icon to find out more about the OBA ad that they have been served and, if they choose, to opt out of participation in OBA.

## **BASIS OF INQUIRY**

The Accountability Program has reviewed whether transparency was being provided for interest-based advertisements during an online advertising campaign for Kia. In multiple tests, using five Web browsers (i.e., Chrome, Firefox, Internet Explorer, Opera and Safari), the Accountability Program visited the Kia website ([www.kia.com](http://www.kia.com)) where we observed third parties known to engage in OBA collecting user data through various tracking pixels embedded throughout the site. After browsing the website for a time, the Accountability Program continued to visit, within the same browsing session, non-affiliated websites where we were served ads for Kia vehicles. The ease with which the Accountability Program was able to reproduce this test on different devices and with different browsers appeared to indicate that the Kia ads we received were likely the result of our recent visit to the website and therefore were tailored to us because of our recent browsing history. However, none of the ads delivered to the Accountability Program contained

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<sup>2</sup> “Online Behavioral Advertising means the collection of data from a particular computer or device regarding Web viewing behaviors over time and across non-Affiliate Web sites for the purpose of using such data to predict user preferences or interests to deliver advertising to that computer or device based on the preferences or interests inferred from such Web viewing behaviors.” (OBA Principles at 9-10, Definition G.).

<sup>3</sup> OBA Principles at 13, Principle II.A.(2)(a).

<sup>4</sup> The DAA Consumer Choice Page is located at [www.aboutads.info/choices](http://www.aboutads.info/choices).

enhanced notice as required by the OBA Principles. We observed several ad networks that were involved in the ad serving chain and initiated formal inquiries into their roles in delivering the ads. The Accountability Program also initiated a formal inquiry with Kia to determine why the ads did not contain the requisite notice.

## COMPANY'S POSITION

In its response to the Accountability Program's formal inquiry, Kia stated that it supported the OBA Principles and it would immediately investigate the issue. Shortly thereafter, Kia provided the Accountability Program with a copy of an email it had sent to its media agency, Initiative to correct any "miscommunication or misunderstanding."<sup>5</sup> In that email, Kia: (a) confirmed its position that it supports use of the AdChoices Icon to give enhanced notice to consumers and expects (and has expected) its third-party ad networks to serve the AdChoices Icon, (b) confirmed its expectation that Initiative would take responsibility to ensure that all OBA ads in any Kia campaigns complied with the OBA Principles, and (c) instructed Initiative to clarify any misunderstanding and direct all third-party ad networks to include the AdChoices Icon on all interest-based ads served in any Kia campaign.<sup>6</sup>

To the extent the Accountability Program found some instances in which the AdChoices Icon was not served on OBA ads that were part of any Kia campaign, Kia stated that was contrary to Kia's position.

Kia also stated that it was in the process of licensing the DAA AdChoices Icon in order to implement its own ability to serve the AdChoices Icon (rather than just relying on third-party ad networks to do so) as part of its commitment to engage with consumers as a socially responsible company.<sup>7</sup>

## DECISION

The OBA Principles were developed to address consumers' concerns about the practices of companies collecting and using data for OBA. Consumers are not the only beneficiaries of the OBA Principles. The entire advertising ecosystem—including advertisers and ad agencies—benefit from vigilant, industry-wide compliance. By instructing their advertising agencies and ad

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<sup>5</sup> Email from Kia to Initiative (August 14, 2012).

<sup>6</sup> *Id.* Kia asked Initiative to take the following steps to clear up any misunderstanding of its position:

- 1) Forward this email to all members of Initiative's team that works on Kia online ad campaigns.
- 2) Confirm by email to all third-party ad networks serving Kia behaviorally-targeted ads that KMA wants and expects them to serve/support the AdChoices icon where applicable. If any third-party ad networks are not doing so now per previously stated misunderstanding, KMA wants them to immediately begin or resume serving the icon on all Kia behaviorally-targeted ads where applicable. Please confirm receipt of this email and that you will take the above steps. Also, it would be helpful to receive a list of the third-party ad networks to whom you confirm KMA's expectation regarding use of the AdChoices icon.

<sup>7</sup> Many brands have chosen to take on the responsibility to provide notice and choice themselves rather than to rely on the third party ad network to do so because it provides the brand with the opportunity to engage directly with their customers on a privacy issue of importance to consumers.

network partners to adopt practices that comply with the OBA Principles, advertisers signal to their customers that they are committed to strong privacy practices.

The Accountability Program is pleased with Kia's prompt action in addressing the compliance issues in inquiry. We commend Kia for taking steps to clarify its support of the OBA Principles to its agency and ad network partners. We trust that until Kia has its own enhanced notice solution fully operational it will continue to direct those acting on its behalf to adhere to the OBA Principles and to serve the AdChoices Icon on all OBA ads.<sup>8</sup>

## **CONCLUSION**

The credibility of self-regulation depends on compliance with the industry standards contained in the OBA Principles by all companies in the industry that engage in OBA. The Accountability Program's monitoring and complaint processes are designed to identify areas of possible non-compliance and to work with companies to expeditiously rectify non-compliance.

The Accountability Program's mission is to build trust between consumers and businesses by ensuring that all in the advertising industry comply with the OBA Principles. When an advertiser embraces self-regulation as Kia has done in this instance, it initiates a virtuous cycle with all members of the advertising ecosystem that support its ad campaigns. Without this commitment, the opposite cycle can all too easily develop and undermine confidence in self-regulation.

## **COMPANY'S STATEMENT**

Kia was happy to confirm for the Accountability Program (and to its media agency Initiative) its support for use of the AdChoices icon on its behaviorally-targeted online ads in order to provide transparency and choice to Internet users. Kia expects (and has expected) all of its participating third-party ad networks to provide enhanced notice to consumers – such as by serving the AdChoices icon - and to comply with other components of the OBA Principles for all Kia online ad campaigns that use behavioral targeting. Kia is also in the process of implementing its own ability to serve the AdChoices Icon (rather than just relying on third-party ad networks to do so), and looks forward to completing that implementation process.

Kia is proud to support the OBA Principles as part of its commitment to good corporate citizenship. While the OBA Principles are part of an advertising industry self-regulatory program and advertisers are not required by law to comply, Kia prioritizes maintaining the trust of consumers.

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<sup>8</sup> Even when a brand assumes responsibility for delivering notice and choice to consumers, ad networks should exercise due diligence to ensure that the Transparency and Choice Principles are implemented on ad campaigns in which they participate.

**DISPOSITION OF DECISION**

Recommendations implemented

A handwritten signature in black ink, appearing to read "Genie Barton". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

**Genie Barton**  
**Vice President and Director**  
**Online Interest-Based Advertising Accountability Program**