

# Online behavioural advertising

Advertising Guidance (non-broadcast)

Legal, decent, honest and truthful



## Foreword

The Committee of Advertising Practice (CAP) offers guidance on the interpretation of the UK Code of Advertising (the CAP Code) in relation to non-broadcast marketing communications.

The Broadcast Committee of Advertising Practice (BCAP) offers guidance on the interpretation of the UK Code of Broadcast Advertising (the BCAP Code) in relation to broadcast marketing communications.

Advertising Guidance is intended to guide advertisers, agencies and media owners how to interpret the Codes but is not a substitute for those Codes. Advertising Guidance reflects CAP's and/or BCAP's intended effect of the Codes but neither constitutes new rules nor binds the ASA Councils in the event of a complaint about an advertisement that follows it.

For pre-publication advice on specific non-broadcast advertisements, consult the CAP Copy Advice team by telephone on 020 7492 2100, by fax on 020 7404 3404 or you can log a written enquiry via our [online request form](#).

For advice on specific radio advertisements, consult the [Radio Centre](#), and for TV advertisements, [Clearcast](#).

For the full list of Advertising Guidance, please [visit our website](#).

## Background

The rules on OBA in Appendix 3 of the CAP Code require advertising networks and other third parties to provide notice to web users in or around an online display advertisement if they are undertaking OBA and provide a means whereby a web user can opt out of the collection and use of web viewing behaviour data for OBA purposes. The rules ensure that the use of OBA is transparent and that users can exercise control over it. The rules are integral to a pan-European initiative – the European Advertising Standards Alliance (EASA) Best Practice Recommendation and an EU industry Framework. Further information can be found here: <http://www.iabeurope.eu/news/self-regulation-framework.aspx>.

The rules are not designed to provide compliance with any specific law and companies should seek their own legal advice when working to comply with privacy and data protection legislation

## What is OBA?

OBA is a sophisticated form of targeted advertising. Third parties, such as advertising networks, work with websites and advertisers to deliver customised advertising based upon the collection and use of web browsing activity. This includes: pages visited, ads clicked and products purchased or shown an interest in. This data about a user's web browsing activity is collected and analysed. If this analysis infers a particular interest, a 'cookie' – a small text file that is stored on the web browser - is placed in your computer and this cookie determines what advertising you receive.

For example, if a user frequently navigated the book review section of a news website and searched other websites for books, that interest – together with the shared interests of many other web users - might reasonably be placed within a 'book lover' segment and served advertisements for books and other goods or services relevant to a literary interest.

The definition also covers re-targeting whereby a product viewed on a retail website, for example, is subsequently advertised (re-targeted) on other websites visited by the browser.

## Exclusions from scope

CAP's rules on OBA do not apply to:

- contextual advertising;
- web analytics;
- ad reporting or ad delivery;
- the collection and use of information for OBA by website operators on their own website(s), or
- the use of OBA in rich media, in-stream videos online or on mobile devices.

While the rules do not currently cover OBA on mobile devices, it is envisaged that they will do so in due course. The rules will then be updated accordingly.

## CAP Rules on OBA

To ensure that consumers are made aware of, and can exercise choice over, the collection and use of information for the purposes of OBA, third parties must:

- 31.1.1** give a clear and comprehensive notice about the collection and use of web viewing behaviour data for the purposes of OBA on their own website, including how a web user can opt out from having web viewing behaviour data collected and used for this purpose. The notice should also link to a relevant mechanism that allows the consumer to opt out of the collection and use of web viewing behaviour data for OBA purposes by that third party or that third party and other third parties.
- 31.1.2** give a clear and comprehensive notice that they are collecting and using web viewing behaviour data for the purposes of OBA, either in or around the display advertisement delivered using OBA. The notice should link to a relevant mechanism whereby a web user can opt out of the collection and use of web viewing behaviour data for OBA purposes by that third party or that third party and other third parties.
- 31.1.3** not create interest segments specifically designed for the purpose of targeting OBA to children aged 12 or under.
- 31.1.4** Third parties that use technology to collect and use information about all or substantially all websites that are visited by web users on a particular computer in order to deliver OBA to that computer must obtain explicit consent from web users before doing so.

## Compliance section

**1.8.1** Rules in Appendix 3 apply only to third parties as defined. If the ASA is unable to identify the relevant third party, the advertiser - on behalf of whom the OBA advertisement is delivered to web users - must, in good faith, co-operate with the ASA to help determine the identity of the third party.

## Providing notice about OBA

### On third party's own website (rule 31.1.1)

Third parties that collect and use data for OBA purposes on websites with whom they partner must provide notice to web users on their own website that they engage in OBA and must provide users with a mechanism whereby they can opt out of having their data collected and used for OBA in the future. It is very unlikely to be sufficient for the third party to place notification of its engagement in OBA in the small print of its website or several clicks away from the home page.

The words used in any link to the notice/opt-out should normally appear in the website footer (visible on every page) and once users click on the link, they should be taken immediately to a more substantial notice/opt-out. It is likely that the following terms will be deemed clear and comprehensive notice for the words used in the link, for the purposes of rule 31.1.1:

- About our ads
- Ad Choices
- Learn about OBA and opt out
- Opt out of OBA / targeted ads
- OBA cookie opt out

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