Insights: Alerts

Enforcement of DAA Cross Device Tracking Guidance Set to Begin in Early 2017

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In October, the Digital Advertising Alliance announced that it will commence enforcement of its guidance on cross-device tracking on February 1, 2017. Although the DAA published the guidance in November of 2015, it has delayed enforcement in order to allow companies time to come into compliance. The clock is ticking - companies now have less than three months to prepare before enforcement by the DAA's Accountability Program begins.

What is Cross-Device Tracking? Cross-device tracking describes the many ways that companies try to identify individual people and collect information about their internet use, across the multiple devices they may use, such as their smartphone, television, laptop, and tablet. The goal is to know, for example, that the person using a particular smartphone is the same person using a tablet or laptop. This kind of cross-device tracking enhances the ability of companies to target that person with relevant content and advertising.

What does the DAA guidance say about Cross-Device Tracking? The DAA's guidance on cross-device tracking explains how the DAA Principles of transparency, notice, and choice, apply to browser- and app-based consumer engagement. Companies are required by the DAA's guidance to provide transparency by notifying users about the company's practices and allowing them to opt out. Companies must also ensure that the consumer opt out prevents data that is collected from a particular browser or device, on which consumer choice is exercised, from being used on another computer or device that is linked with the browser or device where such data was collected (and vice versa) or transferred to an unaffiliated third party.

What should you do in response to the DAA's announcement? In addressing the DAA's enforcement announcement, all companies engaging in cross-device tracking should review their data collection, use, sharing, and targeting practices in detail. In particular, however, companies should most closely examine the methods by which they provide notice to consumers that cross-device tracking is taking place, as well as the methods by which they give consumers the ability to opt out of cross-device tracking. Moreover, a consumer's opt out on one device should be honored on all devices that identify that consumer. In addition, it is important to note that the upcoming enforcement will not only impact DAA participants, but will also affect companies that contract with participants. Vendors that perform data analytics or provide advertising services frequently participate in the DAA and often contractually require their customers to comply with DAA Principles.

The DAA is a voluntary, self-regulatory program – is the government watching? Yes. The Federal Trade Commission (FTC) is watching closely. In November, 2015, the FTC held an industry workshop on cross-device tracking in order to hear from industry participants and to air issues of concern. The FTC has not yet published any findings or guidance, but it is clearly an issue of concern to them. The FTC may be waiting to take action until after it sees the effectiveness, or lack thereof, of the DAA's enforcement efforts in pushing the industry to provide adequate notice and choice to consumers.

If you have any questions or concerns about cross-device tracking, or the issues of privacy, advertising, or compliance in general, please feel free to reach out to us. Kilpatrick Townsend's advertising and privacy team regularly represents all types of companies involved in the digital advertising ecosystem.

Related People



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