

First Self-Regulatory Enforcement Actions Brought Against Advertisers

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The Online Interest-Based Advertising Accountability Program (OIAAP), the body charged with enforcement of the Self-Regulatory Principles for Online Behavioral Advertising, recently released [five decisions](#) following inquiries into the practices of Kia Motors America and the advertising networks that serve Kia ads. The OIAAP determined that certain Kia ads failed to comply with the OBA Principles' notice and choice requirements because they did not include an Advertising Option or AdChoices Icon in each ad. In particular, the OIAAP noted that two advertising networks, Specific Media and Rocket Fuel, had served Kia ads without giving consumers notice that they were receiving the ads based on their browsing history. In response to the self-regulatory enforcement, Kia has "instructed its media agency that it expects its third-party ad networks to comply with the OBA Principles, including serving the AdChoices Icon," and the ad networks similarly pledged to begin providing notice immediately on all interest-based ads in the Kia campaign. Another company, Microsoft Advertising's Atlas Solutions, an ad serving platform, was not included in the decision because its activities were not covered by the OBA Principles.

TIP: Companies whose ads are served based on browsing history should remember that the industry has agreed with the FTC to provide notice and choice. The AdChoices program, as enforced by the OIAAP, is one of the easier ways to accomplish this. When working with third parties to place your online ads, make sure that you understand how those ads are served, and where appropriate, ensure that proper notice and choice is being provided. Failure to do so could result in industry self-regulatory action. Non-compliance with the process could in turn be reported to the FTC, which has taken action in the past for OBA-related matters under its authority from the FTC Act.

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