

NAI Compliance and Enforcement Procedures

The Network Advertising Initiative's (NAI) [Code of Conduct](#) (Code) imposes a binding set of self-regulatory standards on NAI member companies with respect to the collection and use of data for Interest-Based Advertising (IBA). NAI members are held to the promises they make to adhere to the NAI Code through NAI's rigorous compliance and enforcement process.

The compliance and enforcement program includes:

- (1) pre-admission reviews;
- (2) ongoing technical monitoring;
- (3) mechanisms for receiving and investigating consumer complaints;
- (4) mechanisms for investigating complaints of non-compliance;
- (5) annual compliance reviews;
- (6) naming and sanctions procedures for material non-compliance; and
- (7) annual reporting.

This document outlines the procedures governing the NAI's compliance and enforcement program. These procedures are designed to help ensure that NAI members comply with the NAI self-regulatory standards. NAI is committed to providing a transparent process for members, consumers, and others to remain informed about the NAI's work through its annual compliance report and other public statements.

Pre-Admission Reviews

Compliance begins with the pre-admission review process whereby NAI staff evaluates each applicant's business model and privacy practices prior to accepting them as a member. NAI staff conducts detailed evaluations of applicants' business models to help confirm that their business practices are capable of meeting the requirements of the NAI [Code](#), helping ensure compliance with the [Code](#) even before companies join the NAI.

NAI staff reviews applicants' eligibility for NAI membership after a prospective member company submits its response to a detailed application to participate in the NAI self-regulatory program. NAI staff reviews a variety of documents and sources during the admission review, which may include:

- Representations of business practices on the applicant's public website;
- Disclosures and representations of business practices in the applicant's privacy policy;
- Representations of business practices in a representative sample of the applicant's terms of service and advertising contracts;
- Representations of business practices reflected in a representative sample of the applicant's marketing materials;
- Representations of business practices reflected in media publications;

- Responses to a detailed membership application focusing on the applicant's ability to comply with each provision of the NAI Code relevant to its business model; and
- Interviews with senior executives and representatives of the applicant authorized to bind the company, explain the company's data collection and use practices, and represent the technologies used by the company for such purposes.

Applicants shall be required to attest that all information submitted to NAI staff during the admission review is true and accurate to the best of their knowledge and that, if approved for membership, the company will abide by the NAI Code.

NAI staff also conducts independent testing of the applicant's opt-out mechanism on a variety of web browser and operating system (OS) configurations to assess its consistency with the Code. This testing shall seek to verify, at minimum, that the company's opt-out mechanism sets opt-out cookies with the correct parameters, and that members do not inadvertently delete or fail to honor their opt-out cookies with further web browsing by a consumer.

NAI staff advises the company on modifications that may be required to align its business practices and disclosures with the requirements of the NAI [Code](#), based on the admission review. During the application process, NAI staff facilitates and provides the applicant with an opportunity to modify its business practices and/or privacy disclosures to meet the requirements of the NAI [Code](#).

Once NAI staff has completed its review, staff advises the NAI [Board of Directors](#) on the application, together with a recommendation to accept or reject the application. The NAI Board of Directors reviews the application materials and staff recommendation and may request that applicants provide further information or complete additional changes to be accepted as NAI members. The NAI Board makes the final decision on whether the applicant qualifies for NAI membership. At the Board's discretion, companies may be admitted as members while they finalize changes to certain components of their business operations to better comply with the NAI Code. For example, members may be given an opportunity to revise required contractual obligations for partners within a reasonable time after admission to the NAI.

Ongoing Member Monitoring

1. Technical Monitoring

Staff regularly conducts independent automated and manual testing of members' client-side opt-out mechanisms on a variety of browser and OS configurations. Under the Code, each member is required to provide and honor the consumer's choice to disallow IBA data collection and use by a member on a particular browser. The NAI technical monitoring tool uses automated Web crawls to gather data related to the member's opt-out functionality and reliability. It analyzes the crawl data for signs of potential issues and then reports the results of these analyses to NAI staff.

Where NAI staff identifies a potential compliance issue, the affected member company shall respond to NAI staff and, if necessary, correct the issue as quickly as possible. The timeframe allotted for correction depends on the severity and nature of the issue, but in any event it is no later than 30 days after the company is notified of the potential problem. NAI staff may, at its discretion, extend this deadline to accommodate technical difficulties or unavoidable delays. Working together, the NAI and members shall seek to ensure that any potential downtime of an opt-out is as minimal as possible.

2. Consumer Complaints

The NAI provides a central [site](#) or location for consumers to ask questions and raise concerns about members' compliance with the Code. NAI staff reviews all complaints received and responds as appropriate. NAI Staff first attempts to address the issue directly with the consumer. Staff will refer the complaint to the member company to which the complaint pertains if the complaint cannot be resolved by NAI staff.

Member companies must respond to such complaints within 10 days of referral by NAI staff. The member may respond either directly to the consumer or to the NAI with sufficient information to allow NAI staff to resolve the complaint. The company shall correct the issue as quickly as possible if the complaint requires the company to take corrective measures in response to the consumer complaint. The timeframe allotted for correction depends on the severity and nature of the issue, but in any event it is no later than 30 days after the company is notified of the issue. NAI staff may, at its discretion, extend this deadline to accommodate technical difficulties or unavoidable delays.

3. Investigations of Allegations of Non-Compliance

Throughout the year, NAI staff investigates other allegations of non-compliance with the Code discovered by staff, or brought to staff's attention by others, including members of the media, academics, consumer advocates or other member companies.

When NAI staff launches an inquiry into such allegations, the affected member company is required to respond to and cooperate with NAI staff until the investigation is complete. Members shall respond to staff questions truthfully and accurately during the investigation. If NAI staff finds in such investigation that the affected company has committed a material violation of the NAI Code or official NAI policies, NAI staff may, as appropriate, refer the matter to the NAI Board with a recommendation for sanctions.

Annual Compliance Reviews

NAI staff conducts an annual compliance review of each member company's compliance with the [Code](#) beginning the year following a member's admission to the NAI, since the member's ability to comply with the Code is established through the pre-admission review. The annual compliance review shall include an analysis of the member companies' business models, policies and practices to help confirm that they continue to comply with the Code. Member

companies are required to fully cooperate with NAI staff in the process of the annual compliance review.

To carry out this review, NAI staff may review a variety of sources and documents that may include:

- Representations of business practices on the member company's public website;
- Disclosures and representations of business practices in the member company's privacy policy;
- Representations of business practices and requirements imposed on business partners as set forth in a representative sample of the member company's terms of service and advertising contracts;
- Representations of business practices reflected in a representative sample of the member company's marketing materials;
- Representations of business practices reflected in media publications;
- Responses to a detailed questionnaire focusing on compliance with each provision of the NAI Code relevant to the member company's business model;
- Interviews with senior executives authorized to bind the company, explain the company's data collection and use practices, and represent the technologies used by the company for such purposes; and
- Responses to any alleged compliance issues or alleged [Code](#) violations raised by consumers, press reports, academics, consumer advocates, or other member companies.

Where applicable, NAI staff advises a member company on the application of the NAI Code to the company's practices and disclosures, and what modifications may be necessary, in the staff's judgment, to ensure that the company's practices or representations remain in compliance with the NAI [Code](#).

After the completion of the questionnaire and interview process, and as a final step in the annual compliance review, evaluated member companies must attest in writing to their ongoing compliance with the [Code](#). They shall also attest to the veracity of the information provided to NAI staff throughout the review process.

Where NAI staff identifies a potential compliance issue through the annual compliance review process, the affected company will be given up to 30 days to remedy the issue. NAI staff may, at its discretion, extend this deadline to accommodate technical difficulties or unavoidable delays.

Annual Report

Each year, the NAI will produce and publish a report summarizing the results of its compliance review, its testing of members' opt-out tool mechanisms, and the consumer

complaints received and how those complaints were resolved. Such reports will be made available on the NAI's website.

Sanctions

Essential components of the NAI self-regulatory program include a detailed compliance assessment process coupled with strong sanctions. Staff investigates and analyzes alleged violations of the NAI Code and reviews the effective functioning of the member's Opt-Out Mechanism through automated and manual technical monitoring. If during any of the compliance processes, NAI staff determines that a member company has materially violated the Code, then staff shall refer a matter to the Board of Directors, and may recommend sanctions.

Board Referral & Sanctions

Where NAI staff makes a preliminary determination that a potential material violation of the NAI Code has occurred, NAI staff shall refer the matter to the Board of Directors, or a specially selected committee of Board Members. The Board or specially selected committee of the Board has full discretion to make a final determination of non-compliance.

In such cases, NAI staff will first provide the NAI Board or the selected committee with the findings of its investigation of the alleged violation and its recommended sanction(s). The member company will be given a reasonable time to review and respond to staff's recommendation. The member may be given the opportunity to respond to the Board or selected compliance committee.

The Board or compliance committee shall determine whether: a) a material violation has in fact occurred; b) additional information is required or additional time to cure the defect should be permitted, and/or b) whether sanctions are appropriate.

Available sanctions include but are not limited to:

- Public naming of the member or the violation in the annual report or other public document;
- Temporary suspension of membership status for a fixed or indefinite term, subject to further opportunity to cure;
- Permanent revocation of membership;
- Publication of revocation of membership by press release; and/or
- Referral of the company to the Bureau of Consumer Protection of the U.S. Federal Trade Commission, or to state attorneys general or other enforcement bodies.

Termination

The NAI will report in its annual report if a member company, or the NAI, terminates a member membership in the NAI. The NAI may publicly report the reason for such termination either in its annual compliance report or elsewhere.