

# 2016 ANNUAL COMPLIANCE REPORT

EXECUTIVE SUMMARY

# 2016 Annual Compliance Report **EXECUTIVE SUMMARY**

The Network Advertising Initiative (NAI) is a leading non-profit self-regulatory organization and trade association governing technology companies engaged in digital advertising. It is a membership organization, comprised of over 100 third-party digital advertising companies. The vast majority of Internet ads served in the United States involve the technology of one or more of the NAI's member companies. NAI members provide the infrastructure for the tailored advertising that enables a thriving and diverse ecosystem of ad-supported content and services. The NAI helps promote consumer privacy and trust in this ecosystem by creating and enforcing high standards for responsible data collection and use practices among its member companies. The NAI accomplishes this goal through a body of self-regulatory policies accompanied by a robust compliance and enforcement program that helps member companies meet the NAI's high standards.

**“NAI compliance is an essential credential for our business. The NAI’s compliance process provides us with an outside perspective on what we do and helps us ensure that we are incorporating consumer privacy into our products from inception.”** Alex Gove, VP Corporate Development, RadiumOne

## NAI CODES OF CONDUCT

The NAI first developed and adopted a set of self-regulatory policies for online advertising, based on the Fair Information Practice Principles (FIPPs), in 2000. Since then the NAI has updated its Code of Conduct (Code) three times, most recently in 2015, to keep pace with evolving technology and member company business models. The Code not only requires member companies to provide notice and choice with respect to Interest-Based Advertising (IBA), but also imposes a host of substantive restrictions on member companies’ collection, use, and transfer of data for IBA. All members engaged in IBA are required to comply with the Code.

In addition to the Code, which covers members’ IBA activities across unaffiliated websites, the NAI first released its Mobile Application Code (App Code) in 2013 to cover members’ advertising-related data collection and use across mobile applications. The App Code, updated in 2015, applies the same Code principles in a mobile application environment. All NAI members engaged in Cross-App Advertising (CAA) must comply with the App Code. The Code and App Code together are referred to as the Codes.

## COMPLIANCE OVERVIEW

In an effort to provide a highly effective self-regulatory framework for the third-party advertising technology industry that engenders the trust of all stakeholders, the Codes are backed by a rigorous compliance process, and the availability of strong enforcement methods when necessary. The NAI conducts year-round compliance activities that include:

### **Pre-Membership Review:**

NAI staff and the NAI Board of Directors evaluate prospective members' business models, technologies, consumer choice mechanisms, public disclosures, and partner contract provisions to help confirm that they are able to meet the requirements of the Codes and the commitments made in their privacy disclosures.

### **Technical Monitoring:**

The NAI conducts automated monitoring of member opt-out mechanisms and privacy disclosures to help ensure members' compliance with the Codes.

### **Investigation of Consumer Communications:**

The NAI investigates consumer allegations that a member may not be complying with the Codes and works with members to address potential violations.

### **Investigation of Allegations of Non-Compliance:**

The NAI evaluates allegations of non-compliance with the Codes from other sources, such as regulators, competitors and privacy advocates.

### **Annual Compliance Reviews:**

The NAI performs in-depth, annual reviews of members to help them ensure that their business operations continue to materially comply with the Codes and their own privacy disclosures—even as their business models evolve.

### **Enforcement:**

NAI members are subject to formal sanctions for material non-compliance with the Codes or their own privacy disclosures.

### **Publication of the Annual Compliance Report:**

The NAI provides consumers, regulators and others visibility into the state of the advertising technology industry, as well as the NAI's compliance program and self-regulatory process through publication of this annual compliance report.

**“NAI staff is always accessible to offer guidance. As technology changes, they discuss issues and answer questions to help companies compete and keep privacy a priority.”**

**Stephanie King, General Counsel, AdRoll**

## **2016 ANNUAL COMPLIANCE REVIEW**

NAI staff found that all 89 evaluated member companies were materially in compliance with the Codes in 2016, and also found that members took proactive steps to ensure that they remained in compliance with the Codes throughout the year.

NAI staff encountered various nonmaterial issues throughout the compliance period. In such cases NAI staff worked with members to rectify issues promptly, before these potential infractions could affect greater numbers of users. For example, NAI staff discovered that several members' privacy disclosures may not have provided adequate information regarding data collection and use in mobile applications. As 2016 marked the first annual compliance review of member compliance with the App Code, the NAI notified all members with potentially inadequate disclosures and provided additional feedback regarding the requirements for companies engaging in CAA.

The NAI has maintained a longstanding policy of reserving strong sanctions procedures for willful or material violations of the Codes, while working with member companies to resolve unintentional, nonmaterial violations of the Codes as quickly as possible. During the year, NAI staff conducted several investigations regarding potential non-compliance with the Codes. In all such cases reviewed between January 1, 2016 and December 31, 2016, the NAI did not find a material violation of the Codes.

<p><b>Education</b> (Code § II.A.; App Code § II.A.)</p>	<p>In 2016, members estimated that they donated billions of impressions to the NAI’s education campaign. This campaign worked to educate consumers about IBA and available choice mechanisms. NAI staff and member companies also worked on content and creatives for a new educational campaign to be launched in 2017.</p>
<p><b>Transparency and Notice</b> (Code § II.B.; App Code § II.B.)</p>	<p>Members provided consumer-facing notice of their data collection and use practices for IBA, CAA, and Ad Delivery and Reporting (ADR).</p> <ol style="list-style-type: none"> <li>1. First, members provided notice in their privacy disclosures on their own sites regarding their IBA, CAA, and ADR activities.</li> <li>2. Second, members worked to ensure that the digital properties or publishers with which they partner for IBA or CAA activities provide notice and choice.</li> </ol> <p>Member companies also provided notice and choice in or around advertisements through an enhanced notice mechanism.</p> <p>Members worked to disclose the standard health segments they used for IBA.</p>
<p><b>User Control</b> (Code § II.C.; App Code § II.C.)</p>	<p>All NAI members engaged in IBA offered links to Opt-Out Mechanisms from their own sites.</p> <p>The NAI’s Opt-Out Scanner and NAI staff’s manual checks of members’ Opt-Out Mechanisms revealed that members provided and honored consumer choice with respect to the collection and use of data for IBA.</p> <p>All NAI members engaged in CAA offered an Opt-Out Mechanism by honoring device-wide platform controls and/or participating in third-party programs such as AppChoices.</p>
<p><b>Use Limitations</b> (Code § II.D.; App Code § II.D.)</p>	<p>Members expressly affirmed their compliance with the Codes’ limitations around the use of data collected for IBA, CAA, and ADR purposes, confirming that the data was not used to create segments specifically targeting children under 13, or for eligibility purposes such as health insurance or credit eligibility.</p>
<p><b>Transfer Restrictions</b> (Code § II.E.; App Code § II.E.)</p>	<p>Members attested to their compliance with the Codes’ requirements limiting the transfer of data to third parties. Members accomplish this by contractually limiting the recipient’s ability to re-identify individuals for IBA and CAA purposes without Opt-In Consent.</p>
<p><b>Data Access, Quality, Security &amp; Retention</b> (Code § II.F.; App Code § II.F.)</p>	<p>Members confirmed during the annual review that they retained the Non-PII data collected for IBA and CAA purposes in accordance with their publicly posted retention periods and attested to reasonable security for their systems and data.</p>

## 2016 YEAR IN REVIEW

Throughout 2016 the NAI worked diligently to maintain its place as one of the premier self-regulatory bodies in the digital advertising industry. This work included expanded education materials with a focus on non-cookie technologies and mobile advertising, as well as continued efforts by NAI staff and members to combine existing Codes and guidance documents into one holistic document while also bringing newer business models and products under the scope of NAI compliance efforts.

In 2016 the NAI also moved closer to its goals of launching a revamped consumer choice portal and launching a public service campaign to increase consumer awareness of new technologies in the digital advertising arena and the choices available in the face of those technological developments. Similarly, 2016 saw further progress in the NAI's work on providing guidance in the field of cross-device linking for advertising purposes, as well as early work in identifying the most pressing privacy issues regarding data collection and use for targeted advertising on internet-connected television sets. The latter also consisted of close work with the FTC, including FTC staff's participation in an NAI roundtable event, as well as NAI participation in the November 2016 FTC Smart TV Workshop.

In addition to welcoming 19 new member companies in 2016, the NAI also hosted its fourth annual member Summit, bringing this one-of-a-kind industry event to the West Coast for the first time, in San Francisco.

## LOOKING FORWARD

2017 is promising to be a tremendous year for the NAI, marking the launch of the NAI's updated consumer choice page, providing additional transparency and functionality in a wider variety of browser settings, as well as the publication and enforcement of the NAI's guidance on the use of cross-device technology for targeted advertising. These events are the culmination of extensive work by NAI staff, members, and the Board of Directors.

The NAI plans to continue efforts to synthesize its Code and App Code into one document to make NAI requirements easier to grasp for the public, while further expanding coverage to emerging digital advertising products and technologies. The NAI will also advance work with its members and with industry stakeholders to examine terminology, including the continuing relevance of the Non-PII and PII distinction.

On a technological front, the NAI will continue to develop, expand, and improve its suite of technical monitoring tools while also examining internet-connected television and other innovative technologies, and the role of self-regulation in this space.

# NAI 2016



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**NAI**   
Network Advertising Initiative