

Application of the Self-Regulatory Principles of Transparency & Accountability to Political Advertising



DIGITAL ADVERTISING ALLIANCE
aboutpoliticalads.org

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AMERICAN ADVERTISING FEDERATION
THE UNIFYING VOICE FOR ADVERTISING™

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Leading the Marketing Community

BBB
Start With Trust

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NAI
Network Advertising Initiative

DEVELOPED BY: American Association of Advertising Agencies
American Advertising Federation
Association of National Advertisers
Council of Better Business Bureaus
Data & Marketing Association
Interactive Advertising Bureau
Network Advertising Initiative

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Application of the Self-Regulatory Principles of Transparency & Accountability to Political Advertising

OVERVIEW

This guidance explains how the Digital Advertising Alliance’s (“DAA”) Self-Regulatory Principles of Transparency and Accountability, which are contained in the Self-Regulatory Principles for Online Behavioral Advertising (“OBA Principles”), the Self-Regulatory Principles for Multi-Site Data (“MSD Principles”), the Application of the Self-Regulatory Principles to the Mobile Environment (“Mobile Guidance”), and the Application of the Principles of Transparency and Control to Data Used Across Devices (“Cross-Device Guidance”) (collectively, the “DAA Principles”), apply to certain online digital political advertising. The existing DAA Principles and definitions remain in full force and effect.

This guidance responds to the growing use of digital advertising platforms and technologies to reach potential audiences with political advertising and creates new tools to provide greater transparency and accountability to such emerging practices.

The existing DAA Principles and related implementing tools provide a consumer touchpoint to foster transparency about the advertising they see online on the desktop and mobile web, in mobile apps, and across various browsers or devices. This guidance applies the DAA's principles of Transparency and Accountability to Express Advocacy in advertisements online and in mobile apps. The guidance explains that a Political Advertiser who pays for the promotion of an Express Advocacy message is responsible for providing enhanced notice in or around that Political Advertisement, which links to a notice disclosing certain information about the Political Advertiser. As described in this guidance, the notice will include information about the person or entity engaged in the Express Advocacy. Over time, it is expected that Political Advertisers will provide enhanced notice via a version of the DAA's transparency icon, which has become the ubiquitous symbol for consumer transparency in the digital advertising ecosystem. This guidance does not apply to forms of political speech that do not include Express Advocacy (as defined in this Principle).

Since 2009, the DAA's Accountability Programs have worked to help ensure that entities engaged in covered activity are compliant with the Self-Regulatory Principles. These independent enforcement entities monitor the entire marketplace. The limitations and restrictions set forth in this document are within the scope of the DAA accountability programs. The accountability programs will review Political Advertisements, work with Political Advertisers to come into compliance, report on compliance activities publicly, and refer non-compliance to appropriate government agencies as needed.

I. DEFINITIONS

A. EXPRESS ADVOCACY

Express Advocacy means paid-for communications that unmistakably urge the election or defeat of one or more clearly identified candidate(s) for a federal or statewide election.

Commentary: Unmistakable words of advocacy include: (1) Words such as “Vote for,” “Re-Elect,” “support the Democratic nominee,” “cast your ballot for the Republican challenger for the U.S. Senate in Georgia,” “Smith for Congress,” or “Bill McKay in ’18;” (2) Words urging action with respect to candidates associated with a particular issue, such as, “vote Pro-Choice” or “vote Pro-Life,” when accompanied by names or photographs of candidates identified as either supporting or opposing the issue; (3) “Defeat” accompanied by a photograph of the opposed candidate, the opposed candidate’s name or “reject the incumbent;” and (4) Campaign slogan(s) or word(s) that in context can have no other reasonable meaning than to support or oppose a clearly identified candidate, for example, “Bush/Cheney,” or “Obama ’12.” For purposes of this section, a candidate for a statewide election means a candidate for governor, lieutenant governor, secretary of state, treasurer, or state attorney general.

B. POLITICAL ADVERTISER

Political Advertiser means a person or entity that pays for the display of a Political Advertisement.

Commentary: Any content placed for a fee that includes Express Advocacy is a Political Advertisement subject to this Principle.

This would include payment to a third party to have an advertisement or post placed, published, or for its circulation to be increased. Examples of an individual or entity that may be a Political Advertiser include a candidate, political party, or registered political committee.

C. POLITICAL ADVERTISEMENT

Political Advertisement means an advertisement that contains Express Advocacy.

Commentary: These Principles apply to Political Advertisements displayed in browsers or mobile applications. By definition, a Political Advertisement must contain Express Advocacy. These Principles do not apply to other forms of political speech that do not include Express Advocacy.

II. TRANSPARENCY

A. ENHANCED POLITICAL ADVERTISEMENT NOTICE

A Political Advertiser should include an icon/wording in or around each Political Advertisement that provides clear, meaningful, and prominent notice that the advertisement is a Political Advertisement.

Commentary: Enhanced notice described in this section is in addition to any disclaimer required for a Political Advertiser by state or federal law.

A Political Advertiser that provides the icon/wording through a setting or mechanism provided by a platform or operating system that is consistent with this Principle satisfies this Principle.

B. POLITICAL ADVERTISEMENT NOTICE

A Political Advertiser should provide clear, meaningful, and prominent notice in connection with its Political Advertisement. Such notice should be linked from a clear, meaningful, and prominent disclosure in or around the advertisement and should include:

- (a) The name of the Political Advertiser;
- (b) A telephone number, physical address, Web address, or alternative and reliable contact information for the Political Advertiser;
- (c) Any other information required by applicable federal or state law to be included in a disclaimer notice for the Political Advertiser;

- (d) A link provided as set forth below in (1) or (2):
- (1) Relevant Government Database: A Political Advertiser should link to a readily accessible, online, searchable government database of contributions and expenditures by the Political Advertiser, if the Political Advertiser is required to be registered with a federal or state agency that provides such a database; or
 - (2) DAA-Developed Web site: Political Advertiser should link to a DAA-developed Web site that maintains links to one or more readily accessible, online, searchable government database of contributions and expenditures for political advertisers, if the Political Advertiser is required to be registered with a federal or state agency that provides such a database;

Provided that, if a Political Advertiser is not required to register with a federal or state agency under applicable law, then the Political Advertiser should state in this notice that it is not required to register or report contributions and expenditures under applicable law;

- (e) As permitted by applicable law, where a Political Advertisement is too small to include a disclaimer required by state or federal law, the Political Advertiser should provide such disclaimer in this notice; and

- (f) The name of the chief executive officers, a member of the executive committee or the board of directors, or treasurer of the Political Advertiser.

Commentary: A Political Advertiser may be an individual, corporation, association, committee, or other entity. The “name” of a Political Advertiser should be the name by which the Political Advertiser holds itself out publicly.

As permitted by applicable law, where an advertisement is too small to include the disclaimer required by state or federal law, the Political Advertiser should include the disclaimer in this notice. For example, as required by Federal Election Campaign Act, the disclaimer “Paid for by [committee]. Not authorized by any candidate or candidate’s committee. [Web/phone/mail]” should be provided by the Political Advertiser in the notice described in II.B.

If a Political Advertiser elects to satisfy Section II.B(d) by providing a link to a DAA-developed Web site, then the Political Advertiser should provide the state in which it is registered in the notice described in Section II.B.

A Political Advertiser that provides the icon/wording through a setting or mechanism provided by a platform or operating system that is consistent with this Principle satisfies this Principle.

III. ACCOUNTABILITY

The Transparency requirements for Express Advocacy are within the scope of the DAA accountability programs. Accountability programs (“Programs”) shall have in place processes that do the following:

- **Monitoring** — Programs will review Political Advertisements on the Internet for compliance with the Principles. Programs will maintain a process for taking complaints from the public, from competitors or opposing candidates, and from government agencies concerning possible non-compliance with the Principles.
- **Transparency and Reporting** — Findings of non-compliance (in particular those that are not corrected), the reasons for those findings, and any actions taken with respect to instances of non-compliance, will be publicly reported by the Programs.
- **Compliance** — When a Political Advertiser is informed by a Program regarding its potential non-compliance with the Principles, the Political Advertiser should take steps to bring its activities into compliance with the Principles. The Programs will send public reports of uncorrected violations to appropriate government agencies.

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