

ANA Ethics:
New Data
Privacy, AI
Principles &
More...

Xenia “Senny” Boone, Esq.

SVP, Center for Ethical Marketing

Association of National Advertisers (ANA)

About ANA

- The mission of the ANA (Association of National Advertisers) is to drive growth for marketing professionals, brands and businesses, the industry, and humanity. The ANA serves the marketing needs of 20,000 brands by leveraging the 12-point ANA Growth Agenda, which the Global CMO Growth Council has endorsed. The ANA's membership includes U.S. and international companies, including client-side marketers, nonprofits, fundraisers, and marketing solutions providers (data science and technology companies, ad agencies, publishers, media companies, suppliers, and vendors). The ANA creates Marketing Growth Champions by serving, educating, and advocating for over 50,000 industry members who invest more than \$400 billion annually in marketing and advertising.
- ***See ana.net***



About the ANA Center for Ethical Marketing

- As a leader in self-regulation, the ANA, through the Center for Ethical Marketing, helps businesses build brand and consumer trust through best practices, guidelines, guidance, compliance services, and committees. The Center seeks to educate, elevate, and advance accountability for the industry and mediate consumer complaints.
- See ana.net/accountability





Law & Ethics...

German Philosopher Immanuel Kant

- "In law a man is guilty when he violates the rights of others. In ethics he is guilty if he only thinks of doing so"

AGENDA:



Part 1 – ANA Ethics Code & Principles



Part 2 – International – ANA DPF



Part 3 – Consumer Choice Initiatives



Part 4 – Policy Updates & Legal Implications for 2025

PART 1 – ANA
Ethics Code &
Principles





Marketing Ethics Code

-  A North Star of Ethical Best Practices for Brands and Partners
-  Builds Consumer Brand and Industry Trust
-  Combined with Industry Self-Regulation for Accountability
-  Developed by Leading Practitioners in Advertising

Includes Data Privacy, AI Principles, and much more!

ana.net/accountability



PURPOSE OF THE CODE



Resource before engaging in new, revamped or existing advertising campaigns to ensure you're implementing industry standard marketing practices.



The Center will use the Code for Self-Regulatory efforts:

Educate companies to bring them into compliance.

To show regulators and legislators industry accountability.

- ▶ **SECTIONS**
- ▶ **Member Principles**
- ▶ **Member Guidelines**
 - ▶ **Marketing Claims and Offers**
 - ▶ **Accessibility, Older Adults, Children**
 - ▶ **Diversity and Inclusion**
 - ▶ **Data Privacy and Security**
 - ▶ **Regulated Products and Services**
 - ▶ **Digital Innovation (AI & Gen AI)**
- ▶ **Best Practices, Case Studies and Resources**



ANA ETHICAL CODE OF MARKETING BEST PRACTICES

MEMBER PRINCIPLES

- 1. Commits to achieving customer satisfaction through good stewardship of the environment and its community. By integrating these practices, it creates value for itself, its stakeholders, and society.**
- 2. Does not tolerate unfair bias (intentional or unconscious), stereotypes, or denigrating content, and instead supports accurate portrayals and representations.**

MEMBER PRINCIPLES

3. Supports all potential customers by using techniques and strategies that are both inclusive and accessible to people with wide-ranging abilities along the entire customer journey.
4. Considers the age range, knowledge, sophistication, maturity, and stages of development of their intended audience.
5. Uses technology in a responsible manner to advance marketing and to improve the consumer experience.
6. Clearly, honestly, and accurately represents their products, services, terms, and conditions, and engages in practices that are transparent to their desired audience.

MEMBER PRINCIPLES

- 7. Delivers their products, services, and experiences as represented.**
- 8. Communicates in a respectful and courteous manner.**
- 9. Responds to inquiries and complaints in a respectful, timely way.**
- 10. Takes steps to help prevent misleading or deceptive marketing and fraud from occurring on their platform or in their name.**

MEMBER PRINCIPLES

11. Maintains heightened security policies and practices to safeguard data.
12. Provides information on their policies about the use and/or transfer of personal information for marketing in a clear manner and easy for consumers to access.
13. Honors requests not to have personal information transferred for marketing.
14. Honors consumer requests not to receive future solicitations.
15. Follows the spirit and letter of the law as well as this Ethics Code.

Section 1

Advertising and Marketing Offers: Supporting Claims

- ▶ Honesty and Clarity of the Offer
- ▶ Point of Contact for Marketing Preferences
- ▶ Solicitation in the Guise of an Invoice or Governmental Notification
- ▶ Advance Consent and Negative Option Plans
- ▶ Special Offers and Claims

Article 1. Honesty and Clarity of the Offer

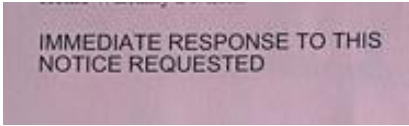
All offers should be clear, honest, and complete so that the consumer may know the nature of what is being offered.

Before publication of an offer, marketers should have substantiation for any claims or offers made.

Advertisements that contain claims that are untrue, misleading, deceptive, or fraudulent should not be used.

Design practices should not be used to trick or manipulate users into making choices they would not have otherwise made and/or that may cause harm to the user.

Examples of deceptive design practices (dark patterns):



- ▶ Bait and switch
- ▶ Hidden costs that are not disclosed in advance to a potential purchaser
- ▶ Forced continuity without the ability to cancel or imposing roadblocks to cancellation
- ▶ Burying important information in hard-to-read disclosures
- ▶ False sense of urgency
- ▶ Disguising advertising, such as claiming to be an invoice for a warranty, or an issued “check” for a sweepstakes when it is a promotional offer
- ▶ Claiming to be coming from a government agency

FTC & “Dark Patterns”

The Federal Trade Commission defines unlawful dark patterns as any online design practices that trick or manipulate users into making decisions they would not otherwise have made and that may cause harm.” See FTC, Bringing Dark Patterns to Light, at 2 (September 2022)
<https://www.ftc.gov/reports/bringing-dark-patterns-light>

FTC & “Dark Patterns”

1. Disclose materials terms of their products & services clearly, conspicuously, and up front when the consumer first receives the offer;
2. Obtain the consumer’s express and informed consent before charging for any product or service; and
3. Provide easy and simple cancellation through mechanisms “at least as easy to use as “the purchase mechanism.” *FTC to Ramp up Enforcement against Illegal Dark Patterns that Trick or Trap Consumers into Subscriptions*, FTC (Oct. 28, 2021), <https://www.ftc.gov/news-events/news/press-releases/2021/10/ftc-ramp-enforcement-against-illegal-dark-patterns-trick-or-trap-consumers-subscriptions>.

Article 9. Point of Contact for Marketing Preferences

Every offer should clearly identify or link the marketer's name and street address or telephone number, or both, at which the individual may obtain service, and exercise their marketing preferences.

If an offer is made online, the marketer should provide or link to a web page listing their name, an internet-based contact mechanism, and a street address.

EXAMPLE:

How to Contact Us:

▶ To submit a request with your marketing preferences or to contact us about our data collection or use practices, you can contact us using the methods provided below:

- ▶ Email:
- ▶ Online portal/contact form:
- ▶ Mail:
- ▶ Toll-free number:

Article 10. Solicitation in the Guise of an Invoice or Governmental Notification

- ▶ Offers that are likely to be mistaken for bills, invoices, checks, or notices from public utilities or governmental agencies should not be used, because these practices could mislead consumers.



Fake Medicare or Social Security Ads

- ▶ People are often misled by advertisers who use the terms “Social Security” or “Medicare.” Often, these companies offer Social Security services for a fee, even though the same services are available directly from Social Security free of charge.
- ▶ Section 1140 prohibits people, companies, and other organizations, from misleading consumers by giving a false impression of association with, or authorization or endorsement by, the Social Security Administration (SSA), through any type of communication, such as telephone solicitations and social media.
- ▶ See, Section 1140 of the Social Security Act, 42 U.S.C. 1320b-10.

- ▶ Marketers should strive to be transparent, accurate, responsible, and responsive stewards regarding data privacy and security. This will build consumer trust in the marketing process and enable marketing growth.

DATA PRIVACY, SECURITY & STEWARDSHIP PURPOSE

- ▶ **Point of Contact for Marketing Communications**
- ▶ Privacy Policy – Placement, Clarity, Content, Timing +
- ▶ Consumer Notice and Choice:
 - ▶ Adhering to DAA principles
 - ▶ Enhanced notice
 - ▶ Connected devices
- ▶ Industry Choice Mechanisms
 - ▶ DAA
- ▶ **Consumer Data Requests – Access, Correction, Deletion**
- ▶ **Responsible Data Usage & Stewardship**
- ▶ Responsibilities of Third Parties
- ▶ Sensitive Data
- ▶ Data Security



DATA PRIVACY, SECURITY AND STEWARDSHIP



AI: ANA Resources

- ▶ AI Working Group
- ▶ Digital Innovation Section in ANA Ethics Code
- ▶ ANA AI for Marketers HUB

Digital Innovation/AI

Ensuring Safe and Effective Automated Systems

Mitigating Potential Bias

Ensuring Data Privacy for Automated Systems

Transparency, Notice and Explanation

Providing Human Oversight and Review

Generative AI In Advertising Principles (from AI Working Group)



ANA Ethics Code: General Digital Innovation Principles

- AI is the development of computer systems able to perform tasks that normally require human intelligence, such as visual perception, speech recognition, decision-making, and translation between languages. Generative AI focuses on uses to create new or significantly modified content and is further defined below in the AI Principles section. The term “machine learning” (ML) means a set of techniques that can be used to train AI algorithms to improve performance at a task based on data.

General Digital Innovation Principles

Article 2. Marketers Should Mitigate Against Potential Bias

Automated systems may become biased if they arise from biased data input or are trained on biased data and there is no human corrective action taken. Having a diverse development team will help protect against this potential bias.

- Automated systems used for marketing, advertising, and advertising selection should not be used to determine ineligibility for, or to impose adverse terms and conditions of, employment, credit, housing, health care, education admissions, financial aid, or insurance.

-Marketers should designate human oversight to review these systems for negative discriminatory bias through oversight and periodic testing, with the goal of safeguarding against unplanned or unforeseen bias brought on by model training.



ANA Ethics Code: Generative AI & Marketing Principles

Gen-AI

- Generative artificial intelligence provides opportunities to promote innovation and competition while also presenting new challenges.
- The Biden administration has called on regulators and industry actors to develop safeguards for the deployment of Generative AI systems, which it has referred to as AI systems or algorithms that significantly modify or generate new “synthetic” content. The Federal Trade Commission has similarly taken an interest in Generative AI systems that create new content, which distinguishes such systems from other AI systems that simply analyze or use existing data. The ANA has developed these principles for our industry to aspire to when deploying Generative AI systems for marketing and advertising purposes.



Gen AI Principles – Excerpts:

Article 1. Transparency

1. *Advertising Generally.* Consumers should be given clear or easily accessible notice of the use of Generative AI in audio and/or visual advertisements when the failure to disclose the use of a Generative AI system to create new content or significantly modify existing content is likely to materially mislead a reasonable consumer as to the creation of the advertisement.

Commentary: Failure to disclose the use of a Generative AI system is not materially misleading if the system is used to create or modify content in ways that do not materially affect the weight or credibility a reasonable consumer would give to the advertisement. Such notice should be provided using means such as, but not limited to, a water-marking system, standard icon, or visual or audio disclaimer within the advertisement.



Gen AI Principles - Excerpts

Article 3. Protection of Intellectual Property Rights

AI-generated content should not be used for marketing if an entity's review process identifies that AI-generated content produced by a Generative AI system infringes on the intellectual property rights of others.





PART 2 – International – ANA DPF



EU-US Data Privacy Framework

- In 2020, the European Court of Justice invalidated the EU-US Privacy Shield because it did not protect its citizens (EEA data subjects) from U.S. surveillance. It was replaced with a new Data Privacy Framework in July of 2023. The DPF is a voluntary program that enables U.S. companies to self-certify their compliance with EU requirements for transferring personal data in a privacy-protected manner to the United States.
- Now, U.S. companies may use the DPF as a legal mechanism to transfer data from the EU, UK & Switzerland. It is administered by the International Trade Administration (ITA) within the Department of Commerce. **See, dataprivacyframework.gov**



DPF Frameworks

- To join the Data Privacy Framework, a company must self-certify to the Department of Commerce that it complies with the Data Privacy Framework Principles. A participating company's failure to comply with the Principles may violate Section 5 of the FTC Act's prohibition on unfair and deceptive acts.
- Under the DPF, companies are required to select an independent third-party mediator to resolve any complaints that might arise under the program. ANA is an approved mediator under this program and monitors for data privacy complaints.

See, ANA DPF Annual Report (shared as CLE materials or view online at ana.net/accountability)



DPF Frameworks

Depending on the company's needs, it selects one, two or all three of the DPFs which offer stringent privacy safeguards and uphold data protection rights across our borders:

1. **The EU-U.S. Data Privacy Framework:** Safeguards Europeans' personal data transferred to the U.S.
2. **The UK-U.S. Data Privacy Framework:** Safeguards UK citizens' personal data transferred to the U.S.
3. **The Swiss-U.S. Data Privacy Framework:** Safeguards Swiss citizens' personal data transferred to the U.S.





**DPF DISPUTE
RESOLUTION**

ANA Offers Global Marketers and Providers Mediation Service



**Government
Approved:**


**U.S. global marketers/providers seeking
responsible cross-border data transfers
under the Data Privacy Framework.**

Complimentary ANA member benefit and available to nonmembers for a fee.

Contact us at dpf@ana.net

Learn more at ana.net/dpf-dispute-resolution





PART 3 – Consumer Choice Initiatives





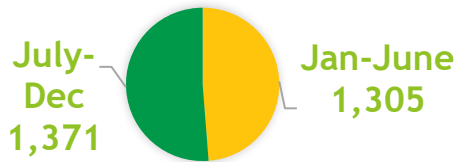
ETHICS COMPLIANCE REPORT

Reporting Period:
July-December 2023
2023 Overview

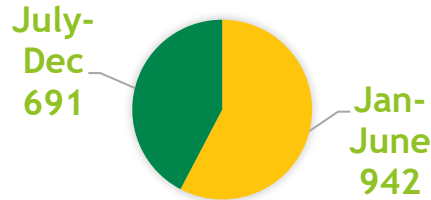
Questions? Contact: ethics@ana.net

Over 4,000 Consumer Inquiries Processed by ANA Center for Ethical Marketing in 2023

GENERAL MARKETING ETHICS ISSUES



DIGITAL AD INQUIRIES



In 2023: processed 4,309 inquiries

January - June: processed 2,247 inquiries.

July - December: processed 2,062 inquiries.

Implemented new phone tree system to address common consumer inquiries October 2022.

Key Compliance Findings

4309 consumer inquiries processed by ANA Accountability staff in 2023:

General ethical marketing: 2,676 inquiries
Online/Interest-based ads: 1,633 inquiries.

New phone tree system - reduced call volumes significantly

Streamlined DMAchoice phone tree system is providing direct assistance to consumers: 268 calls directed to staff.

Slight reduction in digital advertising inquiries:

2023: 1,633 inquiries
2022: 1,787 inquiries

Top consumer concerns: honoring consumers' marketing preferences in direct mail and online advertising:

Consumers continue to seek more control in the amount and types of promotional mail and online display ads they receive.

Majority of consumers contact ANA by:

Emailing and submitting online complaint forms:
4,053 emails received.



Ethics & Doing the Right Thing

Key Issues For Organizations:

Strong privacy protection is ideal and data privacy processes should be reviewed frequently by companies.

Review your privacy policy at least annually to update your terms and conditions and include a detailed legal review.

Provide clear, honest terms and conditions for your marketing and advertising offerings.

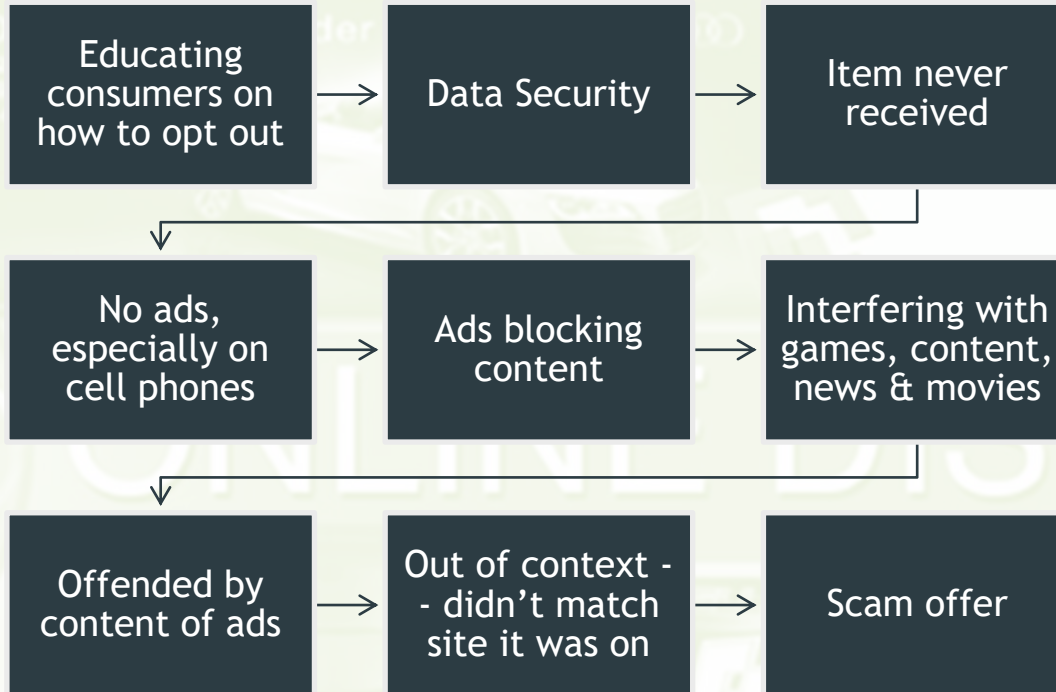
Provide choices for the types of marketing messages consumers receive and honor those choices.

Provide a clear point of contact for consumers to choose their marketing preferences and communicate their concerns.

Keep up-to-date with state, federal and global regulations and laws which may have specific notice & choice requirements.



Evergreen Issues Reported in 2023



- ▶ **Car dealerships** – consumers seeking assistance in being removed from promotional mail, email and texts. Some dealerships do not post privacy policies or provide a clear and accessible method for consumers to opt out of receiving offers.
- ▶ **Extended warranty offers** on cars and appliances and from housing lenders – involving potentially deceptive and misleading copy involving false sense of urgency and no clear and accessible method for consumers to opt out of receiving offers.
- ▶ **Sweepstakes** – pay-for-play schemes targeting vulnerable seniors.
- ▶ **Texts and permissioning** – not providing advance notice and choice requirements.



TRENDS...

UPTICK IN CASES INVOLVING:

FTC & Consumers

FTC Sends More Than \$449,000 to Consumers Harmed by ‘Extended Vehicle Warranty’ Scam

- On October 10, the Federal Trade Commission (FTC) [announced](#) that is refunding \$449,000 to over 18,000 consumers who were harmed by the alleged false claims and deceptive telemarketing tactics made by American Vehicle Protection Corporation. It’s a good reminder for companies to be clear and accurate in their marketing efforts.



FTC & Consumers

Operation AI Comply: Continuing The Crackdown on Overpromises and AI-Related Lies

- On September 25, the Federal Trade Commission (FTC) [announced](#) five cases alleging AI-related deception. These cases involve allegations over deceptive marketing practices including business opportunity scams that claim to use AI for “get rich quick scams” or using a generative AI tool to let people create fake consumer reviews, among other issues.



FTC & Consumers

Car Dealers Included Add-Ons Without Consumers' Consent and Discriminated Against Black and Latino Buyers, Alleges FTC

- On August 20, the Federal Trade Commission (FTC) [posted a blog](#) regarding its recent complaint against a large automotive dealer group, Asbury Automotive Group, for allegedly charging consumers for costly add-on items that they did not agree to or were falsely told were required as part of their purchase. The FTC also alleges that the auto dealership discriminates against Black and Latino consumers, targeting them with unwanted and higher-priced add-ons.

DMACHoice

ANA Consumer Preference Service

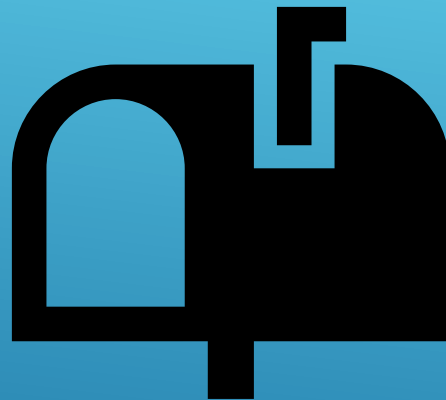
ANA offers a variety of tools to assist consumers in managing marketing messages – delivered to the mailbox, email or phone.

DMACHoice (mail opt-out service)	Deceased Do Not Contact List	Do Not Contact List for Caretakers	Email Opt-Out Service
--	------------------------------------	--	--------------------------



Have a question on a marketing or fundraising offer or need more information on how to better manage your marketing experience: [file an inquiry with the ANA](#).

INDUSTRY & CONSUMER CHOICE TOOLS



SEE [DMACHOICE.ORG](https://www.dmachoice.org)





Do the Right Thing and Subscribe to the ANA's Data Hygiene Tools to Help You Reach the Right Audience



Premier industry mail removal services to help you clean your prospect marketing lists of unresponsive consumers, the deceased, and impaired individuals

Subscribe • Clean Lists • Save
ana.net/accountability | DMAchoice.org





Digital Advertising Alliance

DAA & Self-Regulation





- The Digital Advertising Alliance (DAA) establishes and enforces responsible privacy practices across the industry for relevant digital advertising, providing consumers with enhanced transparency and control through multifaceted principles that apply to multi-site data and cross-app data gathered in either desktop, mobile web, or mobile app environments. The DAA is an independent non-profit organization led by leading advertising and marketing trade associations. See digitaladvertisingalliance.org



DAA Accountability Statistics: YTD

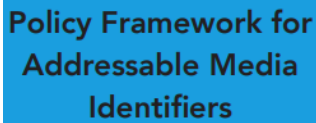





ANA Compliance Report for DAA: January-September 2024 Reporting

	TOPIC	ISSUES	STATUS
	IBA	<ul style="list-style-type: none"> • Mediating consumers' concerns. • Educating ANA membership and ANA Ethics Committees on DAA Work. 	<p>Total Inquiries received: 1,056</p>
	IBA FOR DESKTOPS	<p>Leading IBA concerns:</p> <ul style="list-style-type: none"> • Data Security • Blocks Content • Opt-Out Choices 	<p>Desktop computers: 203 inquiries Laptops: 47 inquiries</p>
	IBA FOR MOBILE DEVICES	<p>Educating companies and consumers.</p>	<p>Smartphones: 501 inquiries Tablets: 49 inquiries</p> <p>Android users: 534 inquiries</p>
<p>Political Ad </p>	POLITICAL	<p>Political transparency: not a primary area of concern, anticipate more during election season.</p>	<p>Cited as primary concern: 27 inquiries</p>

DAA Accountability Statistics: YTD

ANA Compliance Report for DAA: January--September 2024 Reporting

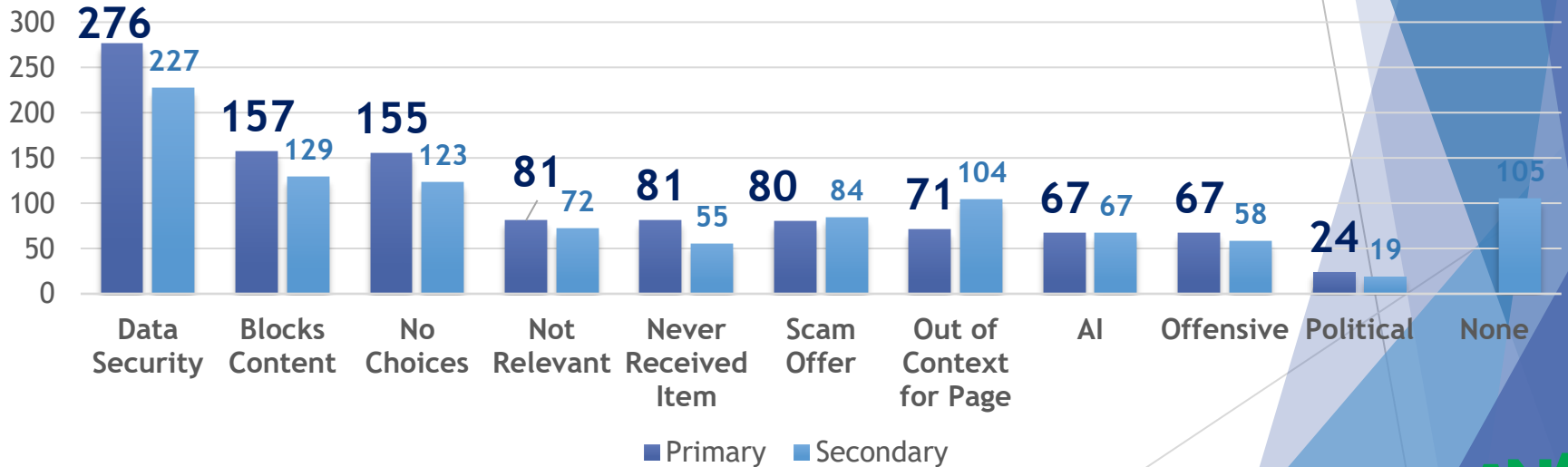
	TOPIC	ISSUES	STATUS
	AMIs	N/A	N/A
	Across Devices	<ul style="list-style-type: none"> • Data security: 86 inquiries • Choices/how to opt-out: 32 inquiries • Blocking content: 30 inquiries • Never received item: 24 inquiries • AI: 19 inquiries • Scam: 17 inquiries • Offensive: 15 inquiries • Not relevant: 13 inquiries • Out of context for page: 12 inquiries • Political: 7 inquiries 	Received 255 consumer inquiries involving multiple devices.
	Multi-Site Data	No issues reported.	N/A
	Connected Devices (IoT)	1 issue reported.	Received 1 consumer inquiry .

Primary & Secondary Online Ad Concerns YTD

Top areas of concern:

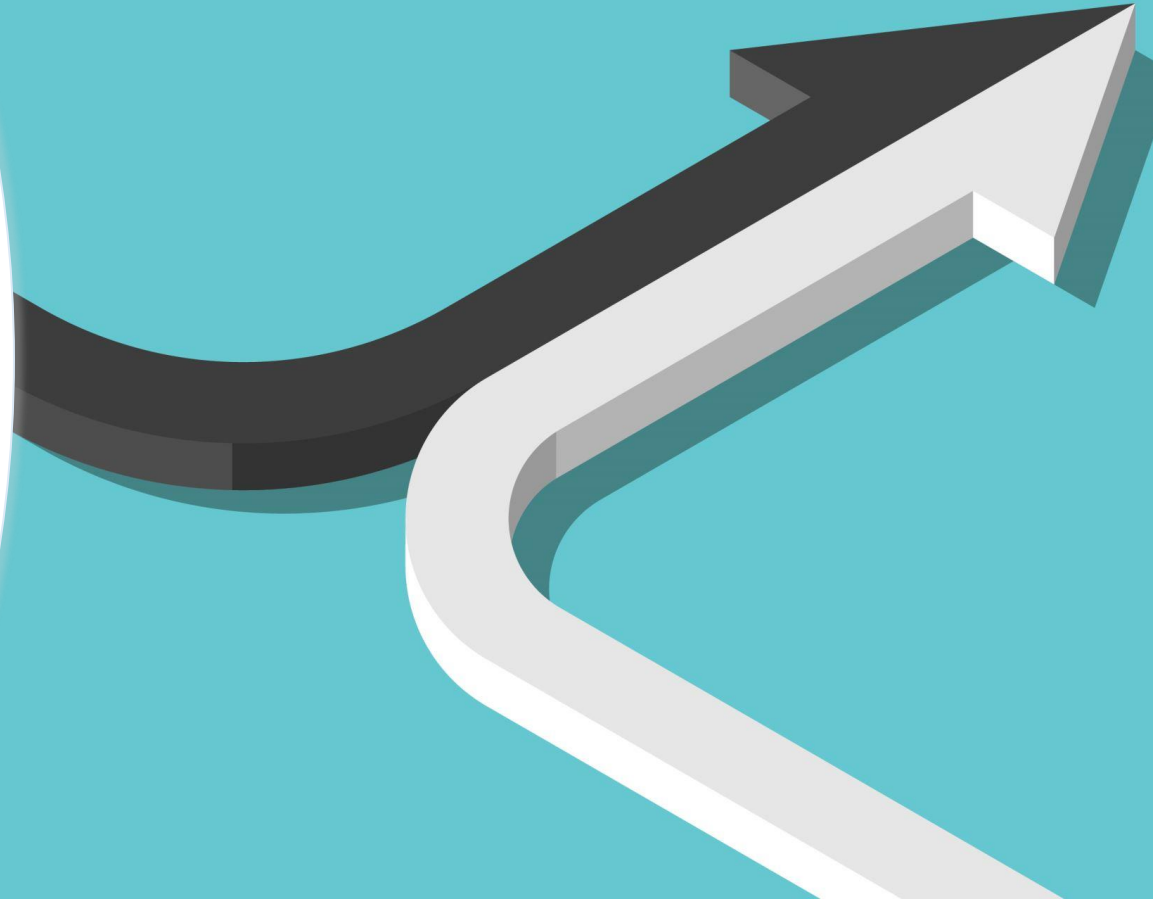
- Data Security
- Ad Blocks Content
- Opt-Out Choices for Consumers

Added AI option mid-March

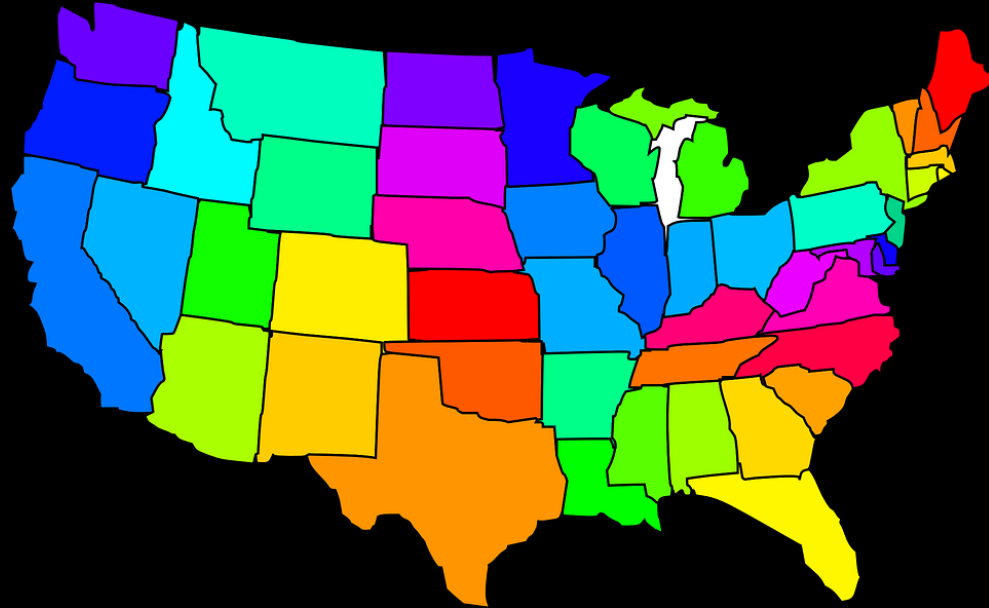




PART 4 –
POLICY
UPDATES &
IMPLICATIONS



STATES



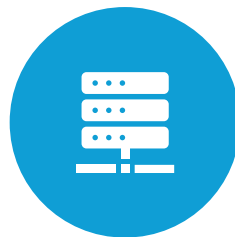
2024: General State Privacy Trends



**STATES FILL THE
VOID**



**TAXES – DATA &
ADS**



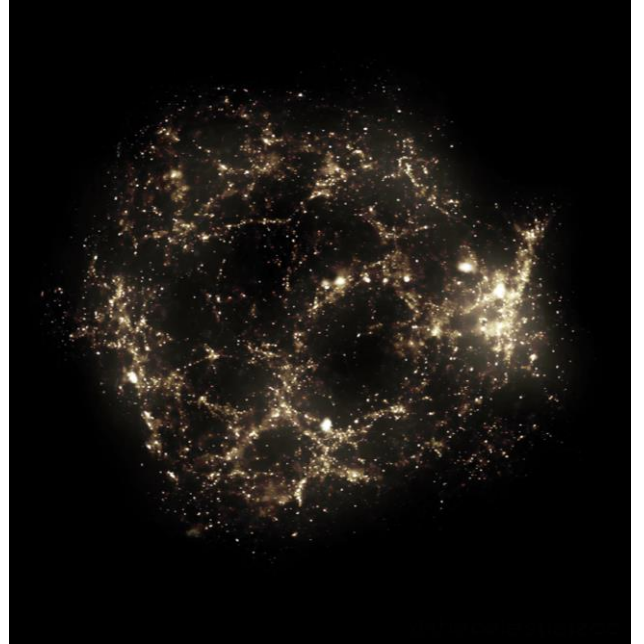
**DATA BROKERS:
ENEMY #1**



**KIDS – 13 OR
18?**

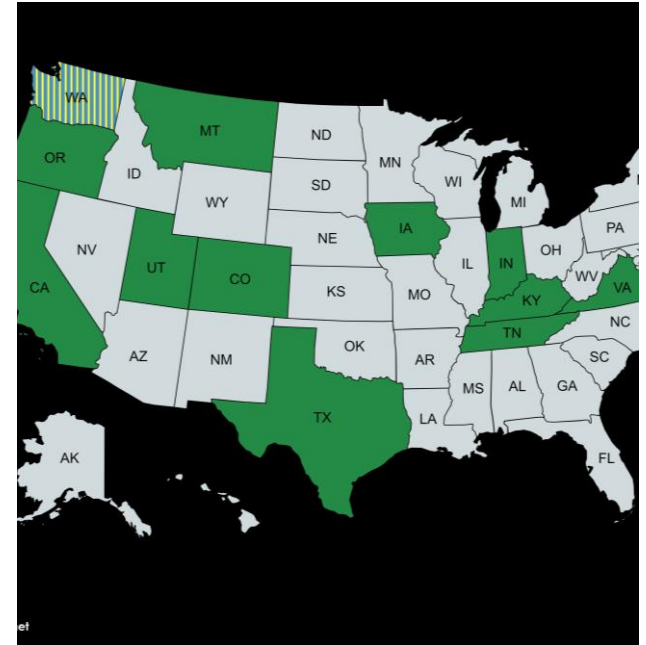
States Fill the Void

- Congress has failed to act and pass a federal privacy law – still a huge need!
- In 2023 alone 8 states passed comprehensive privacy laws. 2024 added more - 20 states have enacted privacy laws designed to increase protections for consumers' personal data...many include nonprofits that must comply.
- Additionally, numerous other states passed specific laws related to health data, children's data, and data brokers.



State Privacy

- Generally, every state has followed an interoperable framework.
 - Every state bill has an opt-out requirement for data sharing, sales, and targeted advertising – none require opt-in consent.
 - Most have notice and data minimization requirements.
 - No *explicit* private rights of action.
- There are outliers however...
 - New Jersey and Maryland allow for possible threats of litigation due to ambiguity in their enforcement provisions.
 - Maryland recently passed a law with new, onerous data minimization provisions.
 - Don't forget data breach – CA privacy law allows a PRA for data breach.



Data Brokers: Enemy #1

- The data broker industry has come under **specific attack** this year. These can be valued partners for the charitable fundraising community!
- States like Texas and Oregon passed data broker specific registry bills.
- In California, SB 362 will require the CPPA to stand up a “one-click” deletion mechanism, allowing a consumer to delete all their data from any registered data broker in the state.

DATA

Ad Trade Bodies Campaign Against California Delete Act

The new bill would be the first in the country that allows universal data deletion



The new bill hobbles the data ecosystem critical for marketers. Izzet Keribar/Getty Images

CA: Data-Deletion for Consumers...Highlights

- Requires the CPPA to create an “**accessible deletion mechanism**” where consumers can at no cost direct some or all data brokers to delete all of their information, subject to the same deletion and other exceptions available under CCPA (beginning in 2026);
- Requires data brokers to continue to delete any new information received about the consumer every 45 days (2026);
- Requires any data broker that receives a deletion request not to sell or share any new personal information about the consumer unless the consumer requests it (2026);
- Requires any data broker that receives a request to direct their service providers and contractors to delete the information (2026);
- Allows “authorized agents” to assist consumers in making deletion requests (2026);

CA: Data-Deletion for Consumers...Highlights

- Requires data brokers to undergo independent compliance audits every three years (beginning in 2028);
- Authorizes penalties and administrative costs for noncompliance, including \$200 for each day a data broker fails to register and \$200 “for each deletion request for each day the data broker fails to delete information” as required.
- The term “data broker” is **defined broadly** as “a business that knowingly collects and sells to third parties the personal information of a consumer with whom the business does not have a direct relationship” (with exceptions.)
- The bill extends not just to data brokers, but also to members of the advertising industry that collect and sell data but do not have a consumer-facing relationship.





COMMON THREADS: STATE PRIVACY LEGISLATION

How is the law enforced & when

- Private Right of Action (PRA), State Attorney General

Consumer "Rights" - opt-out for selling, sharing data, profiling/data includes Mail!

Sensitive Data – know the definition, get permission only! Opt-in

Children, health data extra protections

Data protection assessments

Data processors - need a contract with your processor

NJ - DANIEL'S LAW ALERT

- ▶ This law is intended to protect the families of law enforcement and other public officials from data exposure that could lead to harm and violence as was the case when a Judge's son was murdered by a person who had located the Judge's home address publicly. Opponents are concerned that the law has gone too far and is leading to litigation by one entity that is trying to profit from the new amendments.
- ▶ There has been a spate of new lawsuits in New Jersey by plaintiffs' lawyers/**Atlas Data Privacy Corp.** who sent thousands of automated nondisclosure requests to defendants from @atlasmail.com as a precursor to lawsuits seeking damages based on Daniel's Law. **(N.J. Stat. section 56:8-166.1)** The law adds fines and litigation costs for defendants who do not remove names in 10 days from databases.
- ▶ See <https://www.whitecase.com/insight-alert/recent-proliferation-lawsuits-under-new-jerseys-daniels-law>



MOVEMENT ON FEDERAL PRIVACY

Can a comprehensive federal
privacy law pass in 2024?





The American Privacy Rights Act of 2024

"A federal data privacy law must do two things: it must make privacy a consumer right, and it must give consumers the ability to enforce that right. Working in partnership with Representative Cathy McMorris Rodgers, our bill does just that. This bipartisan agreement is the protections Americans deserve in the Information Age."

Chair U.S. Senator Maria Cantwell

American Privacy Rights Act

- **Congresswoman Morris-Rodgers (R-WA), Senator Cantwell (D-WA) introduced in April**
 - **Creates a national privacy law framework**
 - **Preempts state privacy laws**
 - **Robust enforcement**
 - **Includes a private right of action**
 - **Potentially eliminates targeted advertising**
 - **Nonprofits are included**
 - **Also governs AI and automated decision-making**

FTC Click-to-Cancel Rule

- On October 16, 2024, FTC announced a [final “click-to-cancel” rule](#) that will require sellers to make it as easy for consumers to cancel their enrollment as it was to sign up.
- Most of the final rule’s provisions will go into effect 180 days after it is published in the Federal Register.
- The Commission’s updated rule will apply to almost all negative option programs in any media. The rule also will prohibit sellers from misrepresenting any material facts while using negative option marketing; require sellers to provide important information before obtaining consumers’ billing information and charging them; and require sellers to get consumers’ informed consent to the negative option features before charging them.



FTC Click-to-Cancel Rule

- The final rule will provide a consistent legal framework by prohibiting sellers from:
- misrepresenting any material fact made while marketing goods or services with a negative option feature;
- failing to clearly and conspicuously disclose material terms prior to obtaining a consumer's billing information in connection with a negative option feature;
- failing to obtain a consumer's express informed consent to the negative option feature before charging the consumer; and
- failing to provide a simple mechanism to cancel the negative option feature and immediately halt charges.

See link:

https://www.ftc.gov/system/files/ftc_gov/pdf/p064202_negative_option_rule.pdf




Federal Communications Commission: AI and Robocalls

- On February 8, 2024, the FCC issued a Declaratory Ruling that confirms that the Telephone Consumer Protection Act (TCPA) applies to Artificial Intelligence new technologies.
- “In this Declaratory Ruling, we confirm that the TCPA’s restrictions on the use of “artificial or prerecorded voice” encompass current AI technologies that generate human voices.
- ...therefore require the prior express consent of the called party to initiate such call absent an emergency purpose or exemption.”



Federal Communications Commission: AI and Robocalls

- In every case where the artificial or prerecorded voice message includes or introduces an advertisement or constitutes telemarketing, it must also offer **specified opt-out methods** for the called party to make a request to stop calling that telephone number.
- These requirements are applicable to any AI technology that initiates any outbound telephone call using an artificial or prerecorded voice to consumers.

- 
- ▶ **USPS** filed a price increase request with the PRC on April 9th to take effect July 14, 2024 (**6th price hike since 2020**). Overall rates increase by 7.8%. Forever Stamp from 68 cents to 73 cents. No January increase.
 - ▶ **Legislation NEW: H.R. 9839 USPS Serves US Act (Rep. Jake LaTurner) See [KeepUsPosted.org](https://www.KeepUsPosted.org)**—intent is to reign in rate hikes and give the PRC more authority
 - ▶ **Postal Regulatory Commission** is reviewing the overall rate-setting process for the USPS, it may remove things like the density adder or adjust the workshare discounts...pure price cap was busted years ago, but it may restrict the USPS slightly.

POSTAL ISSUES

All of ANA's LEGR Offerings



- 50 State Legislative Tracking by Leonine FOCUS
- Our Weekly Newsletter – *The ADviser*
- Legal and Regulatory Webinars
- ANA Ethics Policy Committee
- ANA GRC - Capitol Hill Day, Committee Meetings
- ANA LAC – [Masters of Advertising Law Conference \(November 11-13 Scottsdale AZ\)](#), One Day Conferences, Committees
- ANA Regulatory Working Group, Legislative Roundup, and AI Working Group



Association of National Advertisers



@ANAGovRel



washington@ana.net



ANA.net/advocacy



ANA Center for Ethical Marketing

GUIDELINES

- ANA Ethics Code of Marketing Best Practices
- Public Report of Non-Compliance

INDUSTRY COMPLIANCE RESOURCES

- Self-Regulation: Guidance and Programs
- ANA DPF Dispute Resolution Services for Businesses

CONSUMER COMPLIANCE RESOURCES

- Consumer Help
- Choice – Consumer Mail Management Service
- ANA DPF Dispute Resolution Services for Consumers
- Consumer Email Tips
- Guidance for Consumers on Sweepstakes & Prize Promotions

<https://ana.net/accountability>

TO FILE A COMPLAINT:

direct mail, email, calls, texts, or
online ads

CONTACT US:

ANA Center for Ethical Marketing
2020 K Street NW, Suite 660
Washington, DC 20006
ethics@ana.net



Thank you!

Any Questions?

- Review the Code: <https://ana.net/ethicscode>
- Help us update the Code: ethics@ana.net



Senny Boone

SVP, ANA Center for Ethical Marketing
sboone@ana.net



Lisa Brown Shosteck

Consulting Director, ANA Center for
Ethical Marketing

lshosteck@ana.net



ANA ETHICAL CODE OF BEST PRACTICES

JULY 2024

