

Self-Regulatory Program for Children's Advertising

Children's Advertising Review Unit
Administered by the Council of Better Business Bureaus, Inc.
Policies and Procedures set by the National Advertising Review Council
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The Children's Advertising Review Unit
Self-Regulatory Program for Children's Advertising

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I. INTRODUCTION

A. Overview of the Self-Regulatory Program

In 1974, the National Advertising Review Council (NARC) established the Children's Advertising Review Unit (CARU) as a self-regulatory program to promote responsible children's advertising. CARU is administered by the Council of Better Business Bureaus (CBBB) and funded by members of the children's advertising industry.

CARU's self-regulatory program sets high standards for the industry to assure that advertising directed to children is not deceptive, unfair or inappropriate for its intended audience. The standards take into account the special vulnerabilities of children, e.g., their inexperience, immaturity, susceptibility to being misled or unduly influenced, and their lack of cognitive skills needed to evaluate the credibility of advertising.

CARU's standards are embodied in principles and guidelines that were first adopted by CARU in 1975 and have been periodically revised to address changes in the marketing and media landscapes. For example, in 1996, CARU added a new section of the guidelines to address concerns about online data collection practices.

B. CARU's Role

CARU monitors and reviews advertising directed to children, initiates and receives complaints about advertising practices, and determines whether such practices violate the program's standards. When it finds violations, it seeks changes through the voluntary cooperation of advertisers and Website operators. CARU also offers a general advisory service for advertisers and agencies, provides informational material for children, parents and educators, and encourages advertisers to develop and promote the dissemination of educational messages to children consistent with the Children's Television Act of 1990.

C. Boards and Advisory Bodies

Policy for CARU's self-regulatory program is set by the Board of Directors of NARC, a strategic alliance of the advertising industry and the CBBB. The Board is composed of key executives from the CBBB, the American Association of Advertising Agencies, the American Advertising Federation, the Association of National Advertisers, the Direct Marketing Association, the Electronic Retailing Association and the Interactive Advertising Bureau.

CARU's Academic/Expert Advisory Board includes leading experts in education, communication, child development, child mental health, marketing and nutrition. These advisors provide CARU with guidance on child psychology and behavioral issues, market trends and research, and other issues as they relate to advertising and marketing to children. Members of the Advisory Board also consult with CARU on individual cases and participate in the review and revision of the principles and guidelines of the self-regulatory program.

The CARU Supporters' Council, composed of representatives of the companies that support the children's advertising industry's self-regulatory system, provides CARU with advice on trends and developments in children's advertising and media and participates in the review and revision of the principles and guidelines of the self-regulatory program.

D. Procedures and Review Process

The procedures governing the review and resolution of cases, including the opportunity for appellate review by the National Advertising Review Board, are set forth in The Advertising Industry's Process of Voluntary Self-Regulation, which can be found at http://www.caru.org/05_Procedures.pdf. Under the procedures, at least ten times a year, the CBBB publishes Case Reports that include CARU's final case decisions, an Activity Report summarizing actions other than formal case decisions, and guidance based on prior published decisions. CARU's Case Reports can be found at <http://www.caru.org>.

II. THE SELF-REGULATORY PROGRAM FOR CHILDREN'S ADVERTISING

A. Scope

The principles and guidelines of the program apply to:

1. National advertising primarily directed to children under 12 years of age in any medium. Such advertising will be determined by an analysis of factors, no single one of which will necessarily be controlling, including: (a) whether the content of the media in which the advertisement appears is intended for children under 12, (considering the content's subject matter, format, projected audience demographics, and extent to which other advertising in that content is intended for children under 12); (b) whether the advertisement appears during, or just before or after, a television program aired during what is generally understood to be children's programming, considering the time of day during which the advertisement appears and the media outlet; (c) whether the advertisement appears during, or just before or after, a television program which is counted towards the broadcaster's or cablecaster's Children's Television Act obligations; and (d) whether, based on available information (including the subject matter and format of the advertisement), the advertiser intended to direct the advertisement primarily to children under 12.
2. Online data collection and other privacy-related practices by Website operators that target children under 13 years of age or that know or should know that a visitor is a child under 13 years of age.

B. Definitions

1. "National advertising" shall include any paid commercial message, in any medium (including labeling), if: (a) it has the purpose of inducing a sale or other commercial transaction or persuading the audience of the value or usefulness of a company, product or service; (b) it is disseminated nationally or to a substantial portion of the United States, or is test market advertising

prepared for national campaigns; and (c) the content is controlled by the advertiser.

2. "Advertiser" shall mean any person or other legal entity that engages in "national advertising," and includes, under Part II of the Guidelines, those who operate a commercial Website or an online service.

C. Core Principles

The following Core Principles apply to all practices covered by the self-regulatory program.

1. Advertisers have special responsibilities when advertising to children or collecting data from children online. They should take into account the limited knowledge, experience, sophistication and maturity of the audience to which the message is directed. They should recognize that younger children have a limited capacity to evaluate the credibility of information, may not understand the persuasive intent of advertising, and may not even understand that they are being subject to advertising.
2. Advertising should be neither deceptive nor unfair, as these terms are applied under the Federal Trade Commission Act, to the children to whom it is directed.
3. Advertisers should have adequate substantiation for objective advertising claims, as those claims are reasonably interpreted by the children to whom they are directed.
4. Advertising should not stimulate children's unreasonable expectations about product quality or performance.
5. Products and content inappropriate for children should not be advertised directly to them.
6. Advertisers should avoid social stereotyping and appeals to prejudice, and are encouraged to incorporate minority and other groups in advertisements and to present positive role models whenever possible.
7. Advertisers are encouraged to capitalize on the potential of advertising to serve an educational role and influence positive personal qualities and behaviors in children, e.g., being honest and respectful of others, taking safety precautions, engaging in physical activity.
8. Although there are many influences that affect a child's personal and social development, it remains the prime responsibility of the parents to provide guidance for children. Advertisers should contribute to this parent-child relationship in a constructive manner.

D. Guidelines

1. An Overview

The Core Principles are broad in scope and reflect the belief that responsible advertising comes in many forms and that diversity should be encouraged. They aim to cover the myriad advertising practices in today's marketplace, as well as those that may emerge as technologies and advertising practices evolve. The Guidelines below are designed to provide additional guidance to assist advertisers in applying these broad principles to their child-directed advertising and to help them deal sensitively and honestly with children.

The Guidelines are not intended to be exhaustive. With respect to advertising practices that are not specifically addressed, CARU will apply the above Core Principles in evaluating the practices.

Part I of the Guidelines offers general guidance on deception and other marketing practices that are inappropriate when directed to children, and encourages certain practices. Part II addresses online data collection and other privacy-related practices that pose special concerns for children and require more specific guidance.

2. Part I: General Guidelines

(a) Deception

To assure that advertising directed to children is not deceptive:

1. The "net impression" of the entire advertisement, considering, among other things, the express and implied claims, any material omissions, and the overall format, must not be misleading to the children to whom it is directed.
2. Whether an advertisement leaves a misleading impression should be determined by assessing how reasonable children in the intended audience would interpret the message, taking into account their level of experience, sophistication, and maturity; limits on their cognitive abilities; and their ability to evaluate the advertising claims.

(b) Product Presentations and Claims

To avoid deceptive and/or inappropriate advertising to children involving product presentations and claims:

1. Copy, sound and visual presentations should not mislead children about product or performance characteristics. Such characteristics may include, but are not limited to, speed, method of operation, color, sound, durability, nutritional benefits and similar characteristics.
2. The presentation should not mislead children about benefits from use of the product. Such benefits may include, but are not limited to, the acquisition of

strength, status, popularity, growth, proficiency and intelligence.

3. Claims should not unduly exploit a child's imagination. While fantasy, using techniques such as animation and computer-generated imagery, is appropriate for both younger and older children, it should not create unattainable performance expectations nor exploit the younger child's difficulty in distinguishing between the real and the fanciful.
4. Advertisements should demonstrate the performance and use of a product in away that can be duplicated by a child for whom the product is intended.
5. The advertisement should not mislead children about what is included in the initial purchase.
6. Advertising that compares the advertised product to another product should be based on real product attributes and be understandable to the child audience.
7. The amount of product featured should not be excessive or more than would be reasonable to acquire, use or consume by a person in the situation depicted. For example, if an advertisement depicts food being consumed by a person in the advertisement, or suggests that the food will be consumed, the quantity of food shown should not exceed the labeled serving size on the Nutrition Facts panel; where no such serving size is applicable, the quantity of food shown should not exceed a single serving size that would be appropriate for consumption by a person of the age depicted.
8. Advertising of food products should encourage responsible use of the product with a view toward healthy development of the child. For example, advertising of food products should not discourage or disparage healthy lifestyle choices or the consumption of fruits or vegetables, or other foods recommended for increased consumption by current USDA Dietary Guidelines for Americans and My Pyramid, as applicable to children under 12.
9. Advertisements for food products should clearly depict or describe the appropriate role of the product within the framework of the eating occasion depicted.
 - a. Advertisements representing a mealtime should depict the food product within the framework of a nutritionally balanced meal.¹

¹ While there may be a number of acceptable ways to depict a nutritionally balanced meal for children, each depiction should contain at least three of the five major food groups, preferably including those food groups recommended for increased consumption by current USDA Dietary Guidelines for Americans and My Pyramid (i.e., fruits, vegetables, fat-free or low-fat milk and milk products and whole grains). The food included in the meal should reflect reasonable portion sizes and types of foods appropriate for children in the meal setting depicted. For example, a reasonable depiction of carrots may contain an appropriate side-dish portion for a child, rather than one or two condiment-size sticks. If the meal includes a caloric beverage, the beverage should be one that is appropriate in a nutritionally balanced meal taking into account the beverage's nutritional attributes and its calories within the context of the meal depicted.

- b. Snack foods should be clearly depicted as such, and not as substitutes for meals.

(c) Material Disclosures and Disclaimers

1. All disclosures and disclaimers material to children should be understandable to the children in the intended audience, taking into account their limited vocabularies and level of language skills. For young audiences, simple words should be chosen, *e.g.*, "You have to put it together." Since children rely more on information presented in pictures than in words, demonstrative disclosures are encouraged.
2. These disclosures should be conspicuous in the advertising format and media used, *e.g.*, online, advertisers should make disclosures clear and proximate to, and in the same format (*i.e.*, audio or graphic) as, the claims to which they are related; in television, advertisers should use audio disclosures, unless disclosures in other formats are likely to be seen and understood by the intended audience.
3. Circumstances where material disclosures are needed include, but are not limited to, the following:
 - a. Advertising for unassembled products should clearly indicate they need to be put together to be used properly.
 - b. If any item essential to use of the product is not included, such as batteries, this fact should be disclosed clearly.
 - c. Advertisers should clearly disclose information about products purchased separately, such as accessories or individual items in a collection.
 - d. If television advertising to children involves the use of a toll-free telephone number, it must be clearly stated, in both audio and video disclosures, that the child must get an adult's permission to call. In print or online advertising, this disclosure must be clearly and prominently displayed.
4. Advertisers that create or sponsor an area in cyberspace, either through an online service or a Website, must prominently identify the name of the sponsoring company and/or brand in that area. This could be done by using wording such as "Sponsored by _____."
5. If videotapes, CD-ROMS, DVDs or software marketed to children contain advertising or promotions (*e.g.*, trailers) this fact should be clearly disclosed on the packaging.

(d) Endorsements

1. Advertisers should recognize that the mere appearance of a celebrity or authority figure with a product can significantly alter a child's perception of the product. Advertisers may use such personalities as product endorsers,

presenters, or testifiers, but they must take great care to avoid creating any false impression that the use of the product enhanced the celebrity's or authority figure's performance.

2. All personal endorsements should reflect the actual experiences and beliefs of the endorser.
3. An endorser who is represented, either directly or indirectly, as an expert must possess qualifications appropriate to the particular expertise depicted in the endorsement.

(e) Blurring of Advertising and Editorial/Program Content

1. Advertisers should recognize that children may have difficulty distinguishing between program/editorial content and advertising, *e.g.*, when program/editorial characters make advertising presentations or when an advertisement appears to be content to the intended audience.
2. Advertising should not be presented in a manner that blurs the distinction between advertising and program/editorial content in ways that would be misleading to children.²
3. Prohibited practices in television advertising
 - a. Program personalities, live or animated, should not be used to advertise products, premiums or services in or adjacent to a television program primarily directed to children under 12 years of age in which the same personality or character appears.
 - b. Products derived from or associated with a television program primarily directed to children under 12 years of age should not be advertised during or adjacent to that program.
4. In media other than television, a character or personality associated with the editorial/content of the media should not be used to sell products, premiums or services in close proximity to the program/editorial content, unless the advertiser makes it clear, in a manner that will be easily understood by the intended audience, that it is an advertisement.³
5. On Websites directed to children, if an advertiser integrates an advertisement into the content of a game or activity, then the advertiser should make clear, in a manner that will be easily understood by the intended audience, that it is an advertisement.
6. If videotapes, CD-ROMS, DVDs or software marketed to children contain advertising or promotions (*e.g.*, trailers), the advertising itself should be

² This provision does not apply to the mere presence of a product or character in program/editorial content.

³ This provision does not apply to the mere presence of a character or personality in program/editorial content.

separated from the program and clearly designated as advertising.

(f) Premiums, Kids' Clubs, Sweepstakes and Contests

1. Advertisers should recognize that their use of premiums, kids' clubs, contests and sweepstakes has the potential to enhance the appeal of their products to children.
2. Advertisers should take special care in using these kinds of promotions to guard against exploiting children's immaturity.

i. Premiums

- a. Since children have difficulty distinguishing product from premium, advertising that contains a premium message should focus the child's attention primarily on the product and make the premium message clearly secondary.
- b. Conditions of a premium offer should be stated simply and clearly.

ii. Kids' Clubs

- a. Advertising should not mislead children into thinking they are joining a club when they are merely making a purchase or receiving a premium.
- b. Before an advertiser uses the word "club," certain minimum requirements should be met. These are:
 1. Interactivity - The child should perform some act demonstrating an intent to join the club, and receive something in return. Merely watching a television program or eating in a particular restaurant, for example, does not constitute membership in a club.
 2. Continuity - There should be an ongoing relationship between the club and the child member, *e.g.*, a regular newsletter or activities scheduled over a period of time.
 3. Exclusivity - The activities or benefits derived from membership in the club should be exclusive to its members, and not merely the result of purchasing a particular product.
- c. Additional requirements applying to kids' clubs online are covered in Part II of the Guidelines.

iii. Sweepstakes and Contests

- a. Advertisers should recognize that children may have unrealistic expectations about the chances of winning a sweepstakes or

contest or inflated expectations of the prize(s) to be won.

- b. The prize(s) should be clearly depicted.
- c. The free means of entry should be clearly disclosed.
- d. The likelihood of winning should be clearly disclosed in language readily understandable to the child audience. Disclosures such as, "Many will enter, a few will win." should be used, where appropriate.
- e. All prizes should be appropriate to the child audience.
- f. Online contests or sweepstakes should not require the child to provide more information than is reasonably necessary. Any information collection must meet the requirements of the Data Collection section of the Guidelines and the federal Children's Online Privacy Protection Act (COPPA). For examples of compliant information collection practices for this purpose, please visit <http://www.caru.org/news/collection.aspx>

(g) Online Sales

1. Advertisers who sell products and services to children online should clearly indicate to the children when they are being targeted for a sale.
2. If an advertiser offers the opportunity to purchase any product or service, either through the use of a "click here to order" button or other on-screen means, the ordering instructions must clearly and prominently state that a child must have a parent's permission to order.
3. Online advertisers must make reasonable efforts, in light of all available technologies, to provide the person responsible for paying for such products and services the means to exercise control over the transaction.⁴
4. If no reasonable means is provided to avoid unauthorized purchases by children online, the advertiser should enable the person responsible for payment to cancel the order and receive full credit without incurring any charges.

(h) Sales Pressure

1. Advertising should not urge children to ask parents or others to buy products. It should not suggest that a parent or adult who purchases a product or service for a child is better, more intelligent or more generous than one who does not.

⁴ Requiring the use of a credit card in connection with a transaction is a reasonable effort to provide the person responsible for payment with control over the transaction. This is consistent with COPPA regulations. See 16 CFR § 312.5.

2. Advertisers should avoid using sales pressure in advertising to children, e.g., creating a sense of urgency by using words such as "buy it now."
3. Advertisements should not convey to children that possession of a product will result in greater acceptance by peers or that lack of a product will result in less acceptance by peers.
4. Advertisements should not imply that purchase or use of a product will confer upon the user the prestige, skills or other special qualities of characters appearing in advertising.
5. Advertisements should not minimize the price of goods and services with words such as, "only," "just," or "bargain price" that children do not understand to be exaggeration or "puffing."

(i) Unsafe and Inappropriate Advertising to Children

1. Safety

- a. Advertisers should take into account that children are prone to exploration, imitation, and experimentation and may imitate product demonstrations or other activities depicted in advertisements without regard to risk.
- b. Advertisers should not advertise products directly to children that pose safety risks to them, *i.e.*, drugs and dietary supplements, alcohol, products labeled, "Keep out of the reach of children;" nor should advertisers targeting children display or knowingly link to pages of Websites that advertise such products.
- c. Advertisements for children's products should show them being used by children in the appropriate age range. For instance, young children should not be shown playing with toys safe only for older children.
- d. Advertisements should not portray adults or children in unsafe situations or in acts harmful to themselves or others. For example, when activities (such as bicycle riding or skateboarding) are shown, proper precautions and safety equipment should be depicted; when an activity would be unsafe without adult supervision, supervision should be depicted.
- e. Advertisers should be aware that many childhood injuries occur from the misuse of common household products and should avoid demonstrations that may encourage inappropriate use of such products by children.

2. Inappropriate Advertising

- a. Advertisers should take care to assure that only age appropriate videos, films and interactive software are advertised to children, and if an industry rating system applies to the product, the rating label is

prominently displayed.⁵

- b. Advertising should not portray or encourage behavior inappropriate for children (e.g., violence or sexuality) or include material that could unduly frighten or provoke anxiety in children; nor should advertisers targeting children display or knowingly link to pages of a Website that portray such behaviors or materials.

3. Part II: Guidelines for Online Privacy Protection

This Part addresses concerns about the collection of personal data from children and other privacy-related practices on the Internet. Its provisions are consistent with the Children's Online Privacy Protection Act of 1998 (COPPA) and the FTC's implementing Rule, which protect children under the age of 13.

Online data collection from children poses special concerns. The medium offers unique opportunities to interact with children and to gather information for marketing purposes. Young children however, may not understand the nature of the information being sought or its intended uses, and the medium makes it easy to collect such data directly from children without the supervision or permission of their parents or guardians. The solicitation of personally identifiable information from children (e.g., full names, addresses, email addresses, phone numbers) therefore triggers special privacy and security concerns.

The guidelines below address those concerns by providing guidance on specific issues involving online data collection and other privacy-related practices by Website operators that target children under 13 years of age or that know or should know that a visitor is a child under 13 years of age.

(a) Data Collection

1. In collecting information from children under 13 years of age, advertisers should adhere to the following guidelines: Advertisers must clearly disclose all information collection and tracking practices, all information uses, and the means for correcting or removing the information. These disclosures should be prominent and readily accessible before any information is collected. For instance, on a Website where there is passive tracking, the notice should be on the page where the child enters the site. A heading such as "Privacy," "Our Privacy Policy," or similar designation is acceptable if it allows an adult to click on the heading to obtain additional information on the site's practices concerning information collection, tracking and uses.
2. Advertisers should disclose, in language easily understood by a child, (a) why the information is being requested (e.g., "We'll use your name and email to enter you in this contest and also add it to our mailing list") and (b) whether the information is intended to be shared, sold or distributed outside of the collecting company.

⁵ Violations of this guideline may be brought to the attention of the relevant rating entity.

3. Advertisers should disclose any passive means of collecting information from children (e.g., navigational tracking tools, browser files, etc.) and what information is being collected.
4. Advertisers must obtain prior “verifiable parental consent”⁶ when they collect personal information (such as email addresses, screen names associated with other personal information, phone numbers or addresses) that will be publicly posted, thereby enabling others to communicate directly with the child online or offline, or when the child will be otherwise able to communicate directly with others.
5. For activities that involve public posting, advertisers should encourage children not to use their full names or screen names that correspond with their email address, but choose an alias (e.g., “Bookworm,” “Skater,” etc.) or use first name, nickname, initials, etc.
6. Advertisers should not require a child to disclose more personal information than is reasonably necessary to participate in the online activity (e.g., play a game, enter a contest, etc.).
7. Advertisers must obtain prior “verifiable parental consent” when they plan to share or distribute personal information to third parties, except parties that are agents or affiliates of the advertiser or provide support for the internal operation of the Website and that have agreed not to disclose or use the information for any other purpose.
8. When an advertiser collects personal information only for its internal use and there is no disclosure of the information, the company must obtain parental consent, and may do so through the use of email, coupled with some additional steps to provide assurance that the person providing the consent is the parent.
9. When an advertiser collects and retains online contact information to be able to respond directly more than once to a child's specific request (such as an email newsletter or contest) but will not use the information for any other purpose, the advertiser must directly notify the parent of the nature and intended uses of the information collected, and permit access to the information sufficient to allow a parent to remove or correct the information.
10. To respect the privacy of parents, advertisers should not maintain in retrievable form information collected and used for the sole purpose of obtaining verifiable parental consent or providing notice to parents, if consent is not obtained after a reasonable time.
11. If an advertiser communicates with a child by email, there should be an opportunity with each mailing for the child or parent to choose by return email or hyperlink to discontinue receiving mailings.

⁶ The definition of “verifiable parental consent” in the Children’s Online Privacy Protection Rule applies. See 16 CFR § 312.5.

(b) Age-Screening/Hyperlinks

1. On Websites where there is a reasonable expectation that a significant number of children will be visiting, advertisers should employ age-screening mechanisms to determine whether verifiable parental consent or notice and opt-out is necessitated under the Data Collection provisions above.
2. Advertisers should ask screening questions in a neutral manner so as to discourage inaccurate answers from children trying to avoid parental permission requirements.
3. Age-screening mechanisms should be used in conjunction with technology, e.g., a session cookie, to help prevent underage children from going back and changing their age to circumvent age-screening.
4. Since hyperlinks can allow a child to move seamlessly from one site to another, operators of Websites for children or children's portions of general audience sites should not knowingly link to pages of other sites that do not comply with CARU's Guidelines.

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