



2024 ANA MASTERS OF ADVERTISING LAW CONFERENCE

Thriving in the Evolving Children's Advertising and Privacy Landscape: Best Practices to Navigate with Confidence

November 11, 2024

Welcome & Introduction



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Today's Conversation

Latest Developments

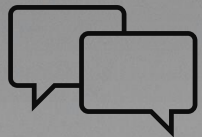
- Data Privacy & Security
- CARU

- Social Media
- Influencer Marketing



**Administering a “Successful”
Marketing Campaign Directed to Kids**

**Final Tips
& Questions**



Audience Q&A

Please kindly hold all questions until the end of today's presentation

Latest Developments Data Privacy & Security

PRESS RELEASE

Justice Department Sues TikTok and Parent Company ByteDance for Widespread Violations of Children's Privacy Laws

Friday, August 2, 2024

The Justice Department, together with the Federal Trade Commission (FTC), today filed a civil lawsuit in the U.S. District Court for the Central District of California against TikTok Inc., ByteDance Ltd., and their affiliates (together, TikTok) for violations of the Children's Online Privacy Protection Act and its implementing regulations (COPPA) in connection with the popular TikTok app.

COPPA prohibits website operators from knowingly collecting, using, or disclosing personal information from children under the age of 13, unless they provide notice to and obtain



States Sue TikTok



Fourteen AGs sue TikTok, accusing it of harming children's mental health

The legal broadside alleges TikTok violated state laws by falsely claiming its service is safe for young people.

A video frame from a news broadcast. In the center, Brian Schwalb, Attorney General of the District of Columbia, is shown from the chest up. He is wearing a dark suit, a white shirt, and a dark tie. He has a serious expression. The background is a blurred view of the U.S. Capitol building. In the top right corner of the video frame is the CNBC logo. In the bottom left corner, there is a small red box with the text "KIDS UNDER PRESSURE" and an image of children. In the bottom right corner, the text "THE NIGHTLY NEWS" is visible. A small blue icon with a speaker symbol is in the top left corner of the video frame.



Senate Passes COPPA 2.0

- Prohibits companies from collecting personal information from users who are 13 to 16 without their consent
- Bans targeted advertising to children and teens
- Revise COPPA's "actual knowledge" standard, covering platforms that are "reasonably likely to be used" by children
- Create an "Eraser Button" for parents and kids
- Establish a "Digital Marketing Bill of Rights for Teens" that limits the collection of personal information of teens
- Establishes a Youth Marketing and Privacy Division at the FTC

Senate Passes KOSA

Kids Online Safety Act (KOSA)

- Provides children and parents with the tools, safeguards and transparency to protect against online harms
- Establishes a “duty of care” for online platforms
- Requires companies to activate the most protective settings for kids by default, providing minors with options to protect their information, disable addictive product features and opt-out of personalized algorithmic recommendations



New York's Safe for Kids Act (June 2024)

Stop Addictive Feeds Exploitation (SAFE) For Kids Act

- Prohibits social media platforms from providing an addictive feed to children younger than 18 without parental consent
 - Platforms must provide users under 18 with a default chronological feed from users they already follow
 - Allows parents to opt out of access to social media platforms for minors between 12-6 a.m. and limit the total number of hours spent per day
 - Prohibits social media platforms from sending notifications to minors from 12-6 a.m. without verifiable parental consent
- Authorizes the Attorney General to bring an action to enjoin or seek damages or civil penalties of up to \$5,000 per violation
- Allows a parent/guardian of a covered minor to sue for damages of up to \$5,000 per user per incident, or actual damages, whichever is greater

New York State: Child Data Protection Act

Other States

California

→ Last year a judge temporarily halted state officials from enforcing the **California Age-Appropriate Design Code**, which would require social media platforms to bolster their privacy protections for children

Maryland

→ **Age Appropriate Design Code** took effect on Oct 1st
→ Mirrors a number of elements on **KOSA**

Michigan & Pennsylvania

→ Are considering their own design code laws

Virginia, Colorado & Connecticut

→ Amended their existing data privacy laws to impose additional requirements on controllers that process the personal data of a known child **under 13 years of age**

Utah

→ **Requires** social media companies obtain parental consent for Utah residents under 18 (*the District Court granted NetChoice's request for an injunction, and stopped the law from going into effect*)

Arkansas

→ **Prohibits** social media companies from allowing Arkansas residents under 18 without parental consent (*the District Court granted NetChoice's request for an injunction, and stopped the law from going into effect*)

Other States

Louisiana	→ Effective July 2024, prohibits online services from allowing people under 16 to sign up for accounts without parental consent
Florida	→ Effective July 2024, “Digital Bill of Rights” prohibits online platforms that provide a service to children from processing the personal information of any child or collecting any personal information that is not necessary to provide the service → Effective Jan 2025, kids 13 and under are banned from joining social media and parental consent is required for those who are 14 or 15
Texas	→ Effective September 2024, requires digital service providers to get parental consent to create an account with minors younger than 18 years of age
Ohio	→ In February 2024, a federal judge temporarily halted enforcement of a law requiring social media companies to obtain parental consent before allowing children under 16 to use their platforms





Latest Developments Children's Advertising Review Unit (CARU)

What is CARU?

- An independent, industry self-regulatory program to promote responsible children's advertising and protect children in an online environment
- Monitors the marketplace for compliance with CARU's Advertising Guidelines to ensure that advertising directed to children is truthful, fair, and appropriate for its intended audience
- The first FTC COPPA Safe Harbor in the U.S., CARU monitors online products and services for compliance with CARU's Children's Online Privacy Guidelines and COPPA
- CARU seeks change through the voluntary cooperation of business and where relevant, enforcement action



CARU's Advertising Guidelines



The Children's Advertising Review Unit (CARU) Advertising Guidelines are widely recognized industry standards to assure that advertising directed to children is not deceptive, unfair, or inappropriate for its intended audience. CARU monitors child-directed media to ensure that advertising is compliant with its self-regulatory guidelines.



BBB National Programs
Children's Advertising Review Unit
bbbprograms.org/CARU

Self-Regulatory Guidelines for Children's Advertising

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 - i. In-App or In-Game Advertising
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Self-Regulatory Guidelines for Children's Advertising

1. Foundation of the Guidelines

The paramount principle underlying the Children's Advertising Review Unit (CARU) Advertising Guidelines is that advertisers should recognize that they have special responsibilities to children. Children have limited knowledge, experience, sophistication, and maturity. Advertisers 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 viewing or hearing advertising.

While many influences affect a child's personal and social development, it remains the prime responsibility of parents to provide guidance for children. Advertising should not undermine this parent-child relationship.

Advertisers should capitalize on the potential of advertising to serve an informational role and influence positive personal qualities and behaviors in children, e.g., being honest and respectful to others, taking safety precautions, and engaging in physical activity. Advertising of products should encourage responsible use of the product with a view toward the healthy development of the child.¹

Advertisers should recognize the power of their advertising to promote positive change by reflecting the diversity of humanity and providing an inclusive space where all can feel valued and respected. Advertisers should strive to create content that is welcoming to children of all races, religions, cultures, genders, sexual orientations, and physical and cognitive abilities.

2. Scope

- a. These Guidelines apply to national advertising that is primarily directed to children under age 13 in any medium.
- b. Whether advertising is primarily directed to children, or to a particular age range of children, will be determined by an analysis of relevant factors, no one of which is controlling: subject matter, visual or audio content, use of child-oriented animated characters, child-oriented activities, or incentives; age of models; presence of child celebrities or celebrities who appeal to children; language or other characteristics; compliant and reliable empirical evidence regarding audience composition; and evidence regarding the intended audience.
- c. Whether advertising complies with the Guidelines will be assessed based upon the particular age range of the children to whom it is directed.
- d. Placement or integration of a product, service, character, or brand in editorial, educational, entertainment, or other non-commercial content is not within the scope of these Guidelines unless such placement or integration constitutes an endorsement.

¹ CARU shares oversight of the self-regulation of advertising to children with the Children's Food and Beverage Advertising Initiative (CFBAI). CARU and CFBAI have jointly issued guidance on the independent contents of child-directed advertising programs and self-regulatory programs, and on the independent contents of child-directed advertising programs and self-regulatory programs, and on the independent contents of child-directed advertising programs and self-regulatory programs, and on the independent contents of child-directed advertising programs and self-regulatory programs. For more information about CFBAI, visit bbbprograms.org/child-directed-advertising.

Compliance Warning Regarding the Use of AI in Advertising



COMPLIANCE WARNING REGARDING THE USE OF AI IN ADVERTISING AND ONLINE DATA COLLECTION PRACTICES DIRECTED TO CHILDREN

May 1, 2024

SUMMARY

BBB National Programs' Children's Advertising Review Unit ("CARU") issues this Compliance Warning regarding the application of CARU's Self-Regulatory Guidelines for Children's Advertising ("Advertising Guidelines") and CARU's Self-Regulatory Guidelines for Children's Online Privacy Protection ("Privacy Guidelines") to the use of Artificial Intelligence ("AI") in advertising and data collection practices directed to children.

Specifically, CARU puts advertisers, brands, endorsers, developers, toy manufacturers, and others on notice that CARU's Advertising and Privacy Guidelines apply to the use of AI in advertising to children and the online collection of personal information from children. CARU will strictly enforce its Advertising and Privacy Guidelines.

Advertisers should be particularly cautious to avoid the use of AI in advertising that misleads children: 1) about product characteristics or performance; 2) about the distinction between real and imaginary or fantasy experiences; 3) that they have a personal relationship with a brand or brand character, celebrity, or influencer; and 4) that a celebrity or other person has endorsed a product when they have not. In addition, advertisers should ensure that the use of AI in advertising does not: 1) portray unsafe or inappropriate behaviors, or 2) generate or reflect negative social stereotypes or bias.

With respect to data privacy, companies that integrate AI technology in their products must clearly disclose data collection practices and obtain verifiable parental consent² before they collect personal information³ from children. Transparency regarding data collection and parental consent remain the guiding standards to uphold privacy and safety.

CARU'S ADVERTISING GUIDELINES

CARU monitors and reviews advertising directed to children for compliance with its Advertising Guidelines. CARU seeks change through the voluntary cooperation of companies and, where warranted, public enforcement action.

CARU's Advertising Guidelines apply to all advertising, in any medium, directed to children under age 13, including advertising that uses AI to create or disseminate the ad. The Foundation of the Guidelines sets forth CARU's overarching principles that advertisers should

¹ Advertising Guidelines

² Privacy Guidelines

³ The definition of "verifiable parental consent" in the Federal Trade Commission's (FTC) Children's Online Privacy Protection Rule applies. See 16 C.F.R. § 312.5.

⁴ Personal information is defined under the Children's Online Privacy Protection Act (COPIPA) as individually identifiable information about an individual collected online. 16 C.F.R. § 312.2.

Generate images of fictitious people who appear to be endorsing a product. Such images would be misleading because they would appear to be third-party endorsements when they are actually from the advertiser itself.

⁵ <https://www.ftc.gov/act/privacy/childrens-privacy-act>
<https://www.ftc.gov/act/privacy/childrens-privacy-act/childrens-privacy-act-implementation>



There are more ways
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Address advertising
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digital worlds include

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child to be a
party or other

It not be used to
such images

Online Data Collection Practices Directed to Children

CARU Action Against KidGeni

The image displays two tablet screens against a colorful, craft-themed background. The left screen shows the KidGeni website's homepage, which features a bright yellow background and the text "A PLACE FOR MAGIC". Below this, it states "Kidgeni is the best place for kids to turn inspirations into art, stories, and more." and offers options to "Let's Create" (ART, STORIES, BOOK, DOODLE, COLORING PAGE) and "Learn to draw". A search bar at the bottom asks "What are you thinking about?". The right screen shows a news article from National Programs titled "Children's Advertising Review Unit Finds KidGeni in Violation of COPPA and CARU's Privacy Guidelines; Issues Compliance Recommendations". The article text includes: "New York, NY - August 6, 2024 - The Children's Advertising Review Unit (CARU) of BBB National Programs launched an investigation into the KidGeni website, a generative AI art creator designed for children. The investigation, prompted by CARU's routine monitoring activities, sought to determine if KidGeni's platform complies with the Children's Online Privacy Protection Act (COPPA) and CARU's Privacy Guidelines. KidGeni markets its website, which is based on generative AI technology, as 'the best place for kids to turn inspirations into art, stories, and more.' KidGeni creates these art, stories, and images based on the text description provided by the child and the training data from the four open-source AI technologies KidGeni relies upon to operate: Open AI, Stability.ai, Replicate, and Elevenlabs.io." A QR code is located in the bottom right corner of the right screen.

kidgeni

Create Doodle Stories Books Sign up for credits Sign in

A PLACE FOR MAGIC

Kidgeni is the best place for kids to turn inspirations into art, stories, and more.

Let's Create

ART STORIES BOOK DOODLE COLORING PAGE

Learn to draw

What are you thinking about? Add idea

National Programs

PROGRAMS EVENTS MEDIA CENTER ABOUT US CAREERS

Newsroom Children's Advertising Review Unit Finds KidGeni in Violation of COPPA and CARU's Privacy Guidelines; Issues Compliance Recommendations

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- Any advertising claims that come out of AI need to be substantiated
- AI should be disclosed to avoid misleading customers, especially children
- Ensure children are not providing systems like ChatGPT personal information as that raises COPPA concerns
- If you are using AI, you are still required to comply with data and privacy requirements (e.g., if you put data into those systems, you may be violating your obligations to protect children's data)

CARU Action Against Vlad and Niki

National Programs PROGRAMS EVENTS MEDIA CENTER ABOUT US CAREERS

Newsroom Children's Advertising Review Unit Finds YouTube Channel "Vlad and Niki" in Violation of its Advertising Guidelines; Recommends Disclosure Modifications

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New York, NY – May 29, 2024 - [The Children's Advertising Review Unit](#) (CARU), a division of BBB National Programs, launched an investigation into the YouTube channel "Vlad and Niki," owned by Content Media Group FZC, LLC (CMG). The investigation, prompted by CARU's routine monitoring activities, seeks to determine if the channel's video content and advertisements comply with CARU's Self-Regulatory Guidelines for Children's Advertising.

Vlad and Niki is a popular YouTube kids' channel, directed to preschool-aged children, amassing over 405 million subscribers, 220 billion views, and content across 21 channels in 18 languages.

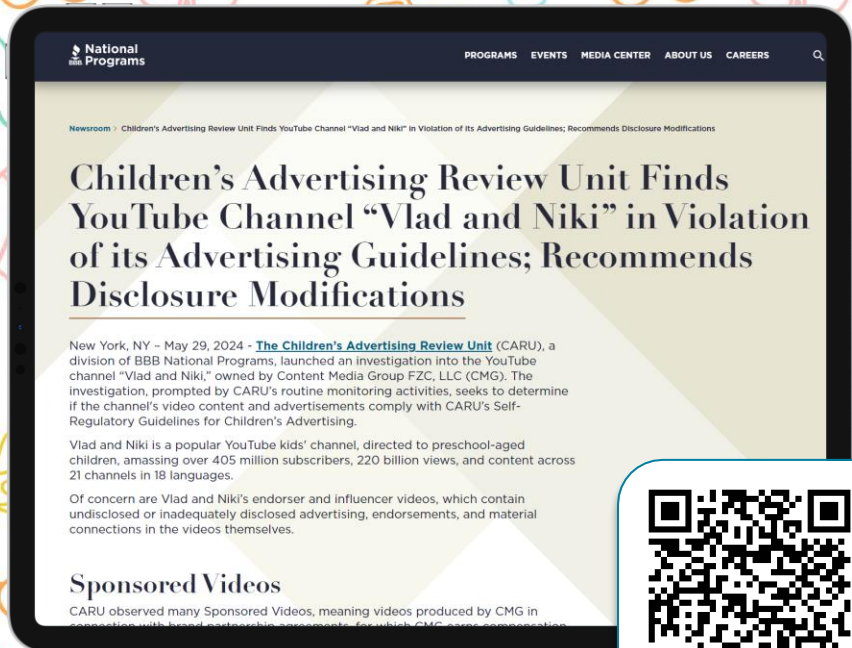
Of concern are Vlad and Niki's endorser and influencer videos, which contain undisclosed or inadequately disclosed advertising, endorsements, and material connections in the videos themselves.

Sponsored Videos

CARU observed many Sponsored Videos, meaning videos produced by CMG in connection with brand partnership agreements, for which CMG does not disclose



CARU Action Against Vlad and Niki



National Programs PROGRAMS EVENTS MEDIA CENTER ABOUT US CAREERS

Newsroom | Children's Advertising Review Unit Finds YouTube Channel "Vlad and Niki" in Violation of its Advertising Guidelines; Recommends Disclosure Modifications

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Sponsored Videos

Product Promotion Videos

Independent Content

YouTube

Latest Developments Social Media


Instagram's New Account Protections for Teens

In September, Instagram announced new protections for Teen accounts

Instagram

Introducing Instagram Teen Accounts: Built-In Protections for Teens, Peace of Mind for Parents

September 17, 2024



The graphic features a central Instagram logo inside a white circle. Surrounding this circle are several icons: a padlock, a shield, a person with a checkmark, and a clock. The text 'Teen Accounts' is written in a curved path above the logo, and 'Built-in protections' is written in a blue box below it.

Takeaways

- We're introducing Instagram Teen Accounts to automatically place teens in built-in protections and reassure parents that teens are having safe experiences.
- Teen Accounts will limit who can contact teens and the content they see, and help ensure their time is well spent.
- Teens under 16 will need a parent's permission to change any of the built-in protections to be less strict within Teen Accounts.

Private accounts for all teens under 16 (those already on Instagram) and teens under 18 when they sign up for the app

Messaging restrictions so they can only be messaged by people they follow or are already connected to

Sensitive content restrictions

Time limit reminders telling them to leave the app after 60 minutes each day

Sleep mode enabled between 10 PM and 7 AM

Last year, Roblox updated its Ad Standards

- Any advertising content is now prohibited to be displayed to any users under age 13
 - Applies to all ads, including influencer marketing, whether independent or Roblox-served
 - Brands are responsible for using Roblox tools (e.g., PolicyService API) to ensure ads are hidden from users under 13
- For users over 13, developers must clearly and prominently disclose when content is an advertisement in simple language (e.g., “ad,” “paid” or “sponsored”)



DAVIS + GILBERT

Advertising + Marketing

Faced with Increasing Pressure,
Roblox Adopts New Advertising Standards

The Bottom Line

- Brands are restricted from showing advertising content to Roblox users under 13 years old and must use the platform's PolicyService API to ensure only users aged 13 or older can view their advertising content.
- Brands should consult with legal counsel if they are unsure whether their content qualifies as advertising under Roblox's updated standards.

Roblox recently updated its [Community Standards](#) and introduced new [Advertising Standards](#) that will have a significant impact on brands' efforts to reach children under age 13 on the platform. The online game platform and game creation system, popular with children and teens, allows users to play with games (called "experiences") created by other users.

Roblox's Advertising History

In 2022, the independent advertising watchdog organization Truth in Advertising (TIA) filed a complaint with the Federal Trade Commission (FTC) claiming that Roblox failed to include adequate advertising and marketing disclosures for content intended for children. Perhaps in direct response to the complaint or in an effort to build on its "foundation of safety and civility," Roblox updated its standards.

Roblox's Advertising Standards

Roblox's new Advertising Standards require that all advertising content on the platform adhere to Roblox's terms and policies and Community Standards, including that all advertising content be hidden from users under age 13. Going forward, brands will be responsible for using Roblox tools, including the PolicyService API, to ensure ads are not visible to users under age 13. Roblox's new Advertising Standards are not visible to users under age 13. Roblox's new Advertising Standards are not visible to users under age 13. Roblox's new Advertising Standards are not visible to users under age 13.

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Lunchables Playables

shaylacor_ez7264



Rating	Active	Visits	Age
45%	0	3.5K	N/A

Description



Executive Summary

The metaverse is an immersive, virtual, global, always-on space where people, including children and teens, go to socialize, learn, create, shop, game, and share.

While metaverse spaces can help create educational, innovative, and entertaining environments for children, these spaces also create potential risks and harms especially dangerous for children. These risks include bullying; body image issues; sexual exploitation and harassment; revealing too much personal information; making unintended purchases; and exposure to self-harm, violence, and gambling.

With these concerns in mind, the Children's Advertising Review Unit (CARU) issued a compliance warning in August 2022, addressing the applicability of its [CARU Advertising Guidelines](#) to the metaverse. In the compliance notice, CARU emphasized that the Advertising Guidelines apply to all advertising, in any medium, directed to children under the age of 13.

CARU reminded brands that, in the metaverse, they should:

- Avoid blurring advertising and non-advertising content.
- Clearly disclose influencer and endorser claims.
- Avoid the use of manipulative designs or other deceptive tactics.
- Use clear and conspicuous disclosures.

Leaning into its 50 years of experience steering brands through decades of technological shifts and associated evolving regulation in the children's advertising and privacy landscape, CARU established its own Metaverse Working Group. This diverse Working Group of CARU Supporters, made up of well-respected global industry professionals representing toy, gaming, network, food, streaming, edtech, and mobile brands popular with children, joined CARU to discuss online advertising, privacy, and safety issues brands and companies face when designing and developing within the metaverse for children.

Building Guardrails for Child-Directed Advertising & Privacy in the

METAVVERSE

This document is a resource and is intended to be an actionable consideration. This document does not respond to all the complex issues in the metaverse, as the space situation is unique.

We encourage responsible and small - to take pro understand the advertising challenges in the metaverse and adopt these best practices responsible and positive for children.

Learn More

Here to Help

CARU is at the forefront of complex issues in the metaverse is no exception.

- CARU has been helping companies and helping companies and guidelines age 13 from de advertising sin
- From concept, pre-screen agencies spot privacy issues promotional w
- Identifying the and privacy, C/ Privacy Guidel for what we nc
- In 2001, CARU approved COP



Generations

Looking to engage with the metaverse should ensure it has the best of the advertising and privacy landscape.

Advertising

Advertisers have special responsibilities to children.

Children may be more vulnerable as an audience due to their limited judgment, experience, sophistication, and maturity. Companies should recognize that younger children have a limited capacity to evaluate the reliability of information, may not understand the persuasive intent of advertising, and may not understand that they are viewing or hearing advertising. In addition, children may not understand the risks of sharing too much personal information online.

When assessing how to apply these obligations to the metaverse environment, the following elements were considered:

- Whether an advertisement in the metaverse should be disclosed as such
- Whether disclosures are required
- Whether disclosures are required to be clear and conspicuous
- Whether disclosures constitute an effective disclosure
- Whether disclosures are required to be clear and conspicuous
- Whether disclosures are required to be clear and conspicuous
- Whether disclosures are required to be clear and conspicuous
- Whether disclosures are required to be clear and conspicuous



Be transparent.

All advertising should be easily recognizable as advertising.

Do not present advertising in a manner that blurs the distinction between advertising and non-advertising content. Clearly and conspicuously disclose when something is advertising or contains advertising.

Best Practices

- ✔ Use language that children will understand (e.g., "Ad", "This is an Ad").
- ✔ Use design techniques, including text size, color, positioning, and other visual or contextual cues, such as the borders around or background shadings of ads, to distinguish ads from non-advertising content.
- ✘ Do not use manipulative tactics or design techniques to induce children to view or interact with advertising or make unintended purchases.

Keep in mind that metaverse worlds, whether branded, sponsored, or user-generated, may feature advertising that

is woven into the theme and content of an experience. Seamless and organic integrations are not likely to be easily identifiable as advertising to children. The risk of manipulating children into unwittingly viewing ads or making unintended purchases is heightened in such metaverse spaces.

It is imperative for brands to do their due diligence when reviewing their own products for compliance with advertising truth and transparency laws relating to children.

Understand when content becomes advertising.

Content would likely be considered advertising within the metaverse if:

- The appearance of a product or brand is intended to promote or encourage the purchase of a product.
- There is an endorsement of a specific product or brand.
- A featured product is tied to promotion for an event (e.g., a game or experience has a limited-edition item that coincides with a product or program release), and details about the event are given (title, date, etc.).
- There is a call-to-action or sales messaging.
- A virtual product is intended to be a true and accurate representation of the same physical product available for retail offline or online.
- Users are directed to a purchase experience/ flow (e.g., when a branded or sponsored experience contains an element (i.e., hole, gate, portal, path) that leads users anywhere money is exchanged to make a purchase).

Other factors that may be considered, but are not necessarily dispositive, when determining if content is an advertisement within the metaverse:

- The content is sponsored (paid for by another company).
- One brand licenses its Intellectual Property (IP) to another brand's experience or world.
- The creative promotes a demand for a product or event.
- The text, imagery, and other information provided by a brand or retailer explains their offerings, such as product name, price, type, quality, specifications or other information that helps customers understand the product.
- The content references a specific product or event.
- A company's economic or commercial motivation.

Content would likely be considered advertising within the metaverse if:

- The appearance of a product or brand is intended to promote or encourage the purchase of a product
- There is an endorsement of a specific product or brand
- A featured product is tied to promotion for an event (e.g., a game or experience has a limited-edition item that coincides with a product or program release), and details about the event are given (title, date, etc.)
- There is a call-to-action or sales messaging
- The content includes information and/or visuals about the attributes of a product or service (such as type, price, or quality), information about the effects of use of the product, and a true and accurate representation of the physical product.
- Users are directed to a purchase experience/ flow (e.g., when a branded or sponsored experience contains an element (i.e., hole, gate, portal, path) that leads users anywhere money is exchanged to make a purchase)

Advertising is NOT...

- An entertainment or educational experience or element that focuses on storytelling and gameplay with no material connection between the brand's products in the real world (offline) and the metaverse experience.
- A company's use of generic products within a branded experience.
- Product placement when there has been no payment or any other consideration.

Ensure your advertising is safe and appropriate for children.

- Do not engage in advertising to children representing products that are illegal to sell to children or pose a risk to their mental or physical health and safety, such as alcohol, tobacco, cigarettes, and gambling.
- Do not engage in advertising that could frighten or provoke anxiety in children, that portrays or encourages behavior inappropriate for children (e.g., violence or sexuality), or that is otherwise inappropriate for children.
- Do not engage in advertising practices that can put undue social or emotional pressure on children, such as deceptive door-openers, misleading design techniques, parasocial relationships, or other manipulative tactics.

Advertising is NOT...

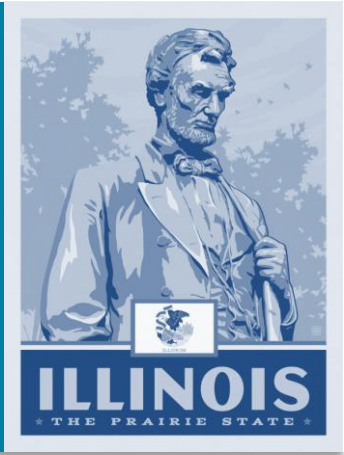
- An entertainment or educational experience or element that focuses on storytelling and gameplay with no material connection between the brand's products in the real world (offline) and the metaverse experience
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- Product placement when there has been no payment or any other consideration

Latest Developments Influencer Marketing

Child Influencer Laws

Illinois became the first state in the US to regulate child influencers

- The law “creates a private right of action for child influencers against their parents that featured them in videos and did not properly compensate them”
- Went effect Jan. 1, 2024



Minnesota

- Passed a similar bill effective July 1, 2025
- Also prohibits children under the age of 14 from “*engaging in the work of content creation*”

Child Influencer Laws

California

- In September, passed two child influencer laws
 1. Similar to the Illinois law
 2. Expanded Coogan Law protections for child performers to influencers

What about the other states?

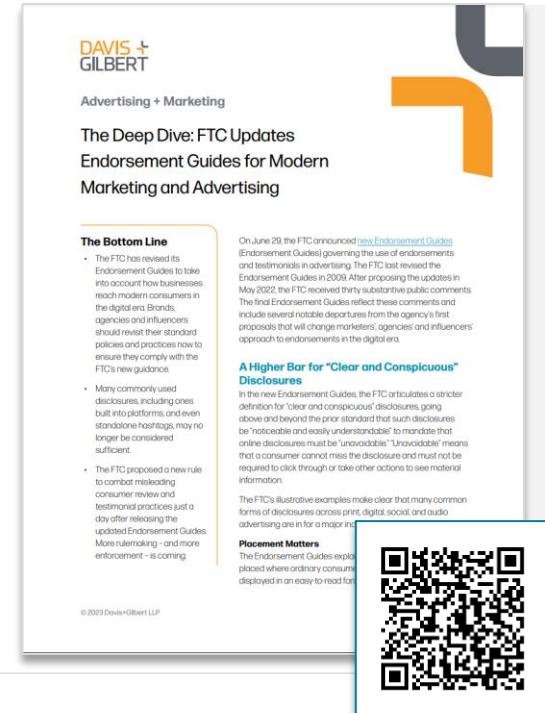
- Arizona, Georgia, Maryland, Missouri, Ohio, Pennsylvania and Washington have introduced similar bills



Updated Guides Concerning the Use of Endorsements & Testimonials in Advertising

Last updated in 2009!

- Definition of “clear and conspicuous”
- Expanding the definition of an “endorsement” (expressly includes the use of virtual influencers)
- Liability of advertisers, agencies, intermediaries and endorsers themselves
- Child-directed advertising, which is now its own section



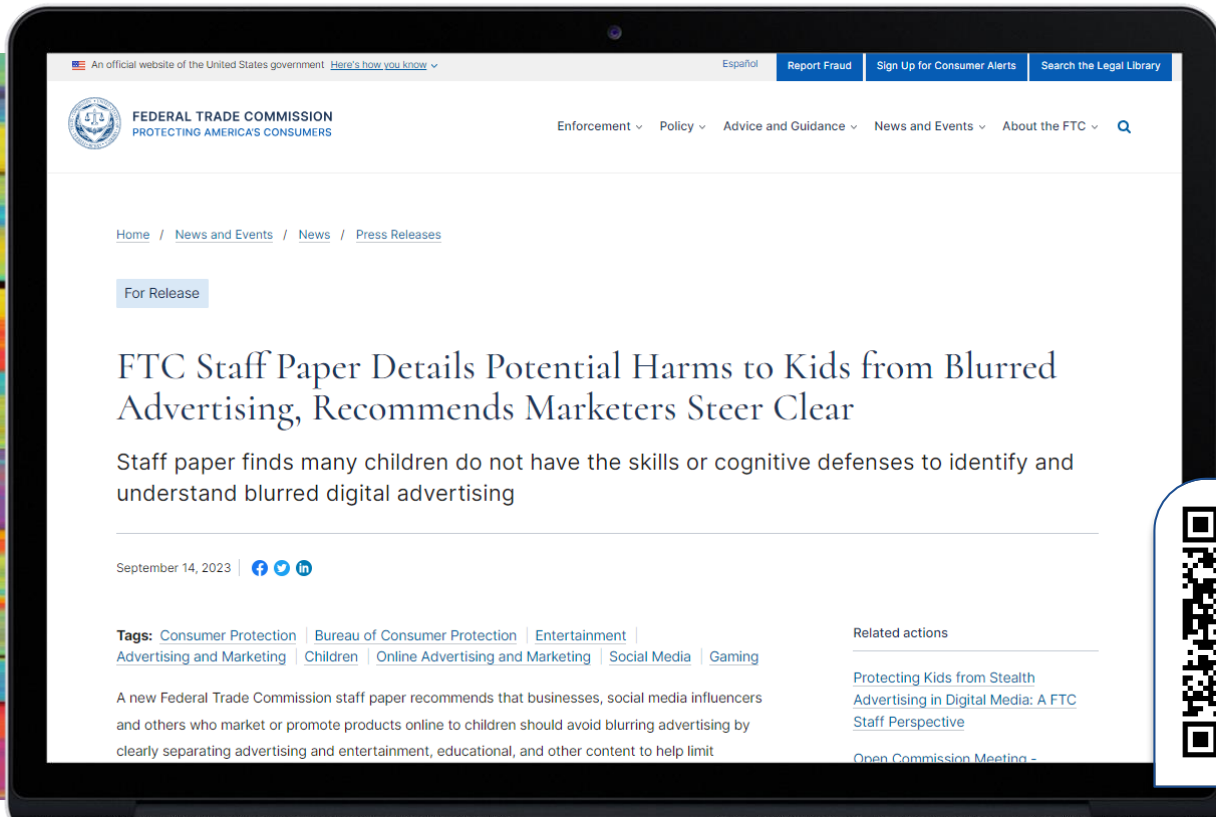
Endorsements Directed to Children

Warning


- Ads directed at children **“may be of special concern because of the character of the audience”**



FTC Staff Paper on Blurred Advertising to Kids



An official website of the United States government [Here's how you know](#) ↓ Español [Report Fraud](#) [Sign Up for Consumer Alerts](#) [Search the Legal Library](#)

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For Release

FTC Staff Paper Details Potential Harms to Kids from Blurred Advertising, Recommends Marketers Steer Clear

Staff paper finds many children do not have the skills or cognitive defenses to identify and understand blurred digital advertising

September 14, 2023 | [f](#) [t](#) [in](#)

Tags: [Consumer Protection](#) | [Bureau of Consumer Protection](#) | [Entertainment Advertising and Marketing](#) | [Children](#) | [Online Advertising and Marketing](#) | [Social Media](#) | [Gaming](#)

Related actions

[Protecting Kids from Stealth Advertising in Digital Media: A FTC Staff Perspective](#)

[Open Commission Meeting -](#)

A new Federal Trade Commission staff paper recommends that businesses, social media influencers and others who market or promote products online to children should avoid blurring advertising by clearly separating advertising and entertainment, educational, and other content to help limit



Best Practices in Influencer Marketing

- Disclosures for child influencers
 - Must comply with CARU and FTC disclosure requirements
- Content / Intellectual Property Restrictions
 - No third-party artwork, music, videos, photos, or trademarks, unless rights
 - No bullying or racist, sexist or discriminating content
 - No swearing or offensive language



Best Practices in Influencer Marketing

- Safety / No dangerous activities
 - Appropriate safety gear (e.g., seat belts, helmets when riding bikes and skateboarding, goggles when conducting science experiments)
 - Adult supervision (e.g., science experiments, swimming, cooking/baking)
- No Inappropriate Content
 - No violence or sexual conduct
 - No weapons, alcohol, sex or drugs





Administering a “Successful” Marketing Campaign Directed to Kids

Introducing Singing Teddy



Singing Teddy, the latest creation from **Giggles & Co. Toys**, will be the featured product of the 2024 Holiday Season

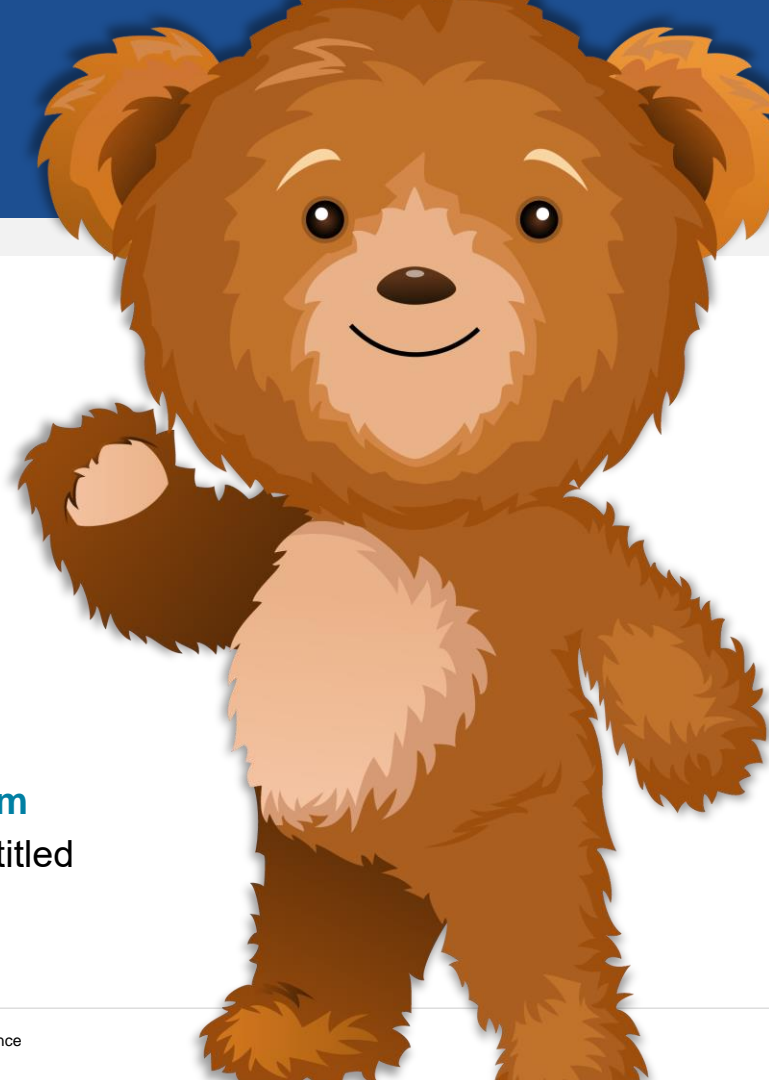
What makes Singing Teddy so unique?

When children press on his stomach, he sings (licensed) songs to the delight of children of all ages

Marketing Campaign (Directed to Children)

The **Giggles & Co. Toys** marketing team outlines in their strategy that the campaign should consist of the following partnerships:

- Partnership with **FreshFinds Market** to develop a “*Singing Teddy Cereal*” that is sold exclusively at FreshFinds stores
- Partnership with the **Little Explorers Streaming Platform** (subscription service) to develop a children’s program entitled “*The Adventures of Singing Teddy*”



Roblox Experience (Directed to Children)



The experience will be a **FreshFinds Market** where **Giggles & Co. Toys** will give away virtual boxes of the **Singing Teddy Cereal** and other FreshFinds-branded products sold at supermarket

The supermarket will include Non-Playable Characters dressed as employees of **FreshFinds Market** who will direct users to items in the store



The experience will include billboards that encourage users to "Watch The Adventures of Singing Teddy coming soon to Little Explorers"

Roblox Experience (Directed to Children)

Potential Violations

- CARU's Blurring Guidelines if not labeled advertising
- Roblox Terms if not designated as Advertising (and children can view it)
- Section 5 of the FTC Act if not labeled Advertising

Watch The
Adventures
of Singing Teddy
coming soon to
Little Explorers

The supermarket will include Non-Playable characters dressed as employees of **FreshFinds Market** who will direct users to items in the store



The experience will include billboards that encourage users to "Watch The Adventures of Singing Teddy coming soon to Little Explorers"

Influencer Marketing Campaign



Giggles & Co. will hire Kid Influencers on YouTube and TikTok to promote the **Singing Teddy doll** and **cereal**



Giggles & Co. will ask the Kid Influencers to dress their dolls up in costumes from different countries and encourage them to speak in accents from those countries



Giggles & Co. will ask the Kid Influencers to hold challenges to see who can eat the most **Singing Teddy cereal**

Influencer Marketing Campaign



Need to ensure appropriate “Advertising” disclosures in visual and audio



Violates CARU’s Inappropriate Advertising Guideline



Violates CARU’s Food Advertising Guidelines

Contests and Promotions



Giggles & Co. will sponsor a contest on Instagram open to children between the ages of 10-16 which encourages entrants to submit videos of themselves dancing to songs that Teddy sings with the hashtag **#BuySingingTeddyNow**

One (1) winner will receive a subscription to Little Explorers Streaming Platform and a DVD for the movie Ted (Ted (2012) - IMDb)



Contests and Promotions

- Violates COPPA because children under 13 years of age cannot disclose personal information (including videos that contain their image or voice) unless operator obtains verifiable parental consent.
- Violates Instagram Terms because children under 13 should not be on Instagram.
- In light of Instagram's new privacy settings, we may not be able to see the accounts of users who are under 16.

CARU's Guidelines

- **Sales Pressure**
- **Sweepstakes and Contests Guidelines**
- **Inappropriate Advertising**

LET'S TALK ABOUT...

The High Stakes of Sweepstakes for Kids!

November 14 @ 2:00 PM ET | Virtual

This webinar will focus on the rules for sweepstakes and giveaways directly targeting children, helping advertisers better understand the unique compliance requirements for these types of campaigns.



REGISTER NOW

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Contests and Promotions



Experiential Event



Giggles & Co. will host a paid “Teddy Experiential Event” in the basement of an old NYC building and will use AI to make the event look magical and make it look like celebrities such as Taylor Swift have attended the event (when they have not)

Experiential Event

- **CARU's Advertising Guidelines**
- **CARU's AI Compliance Warning**



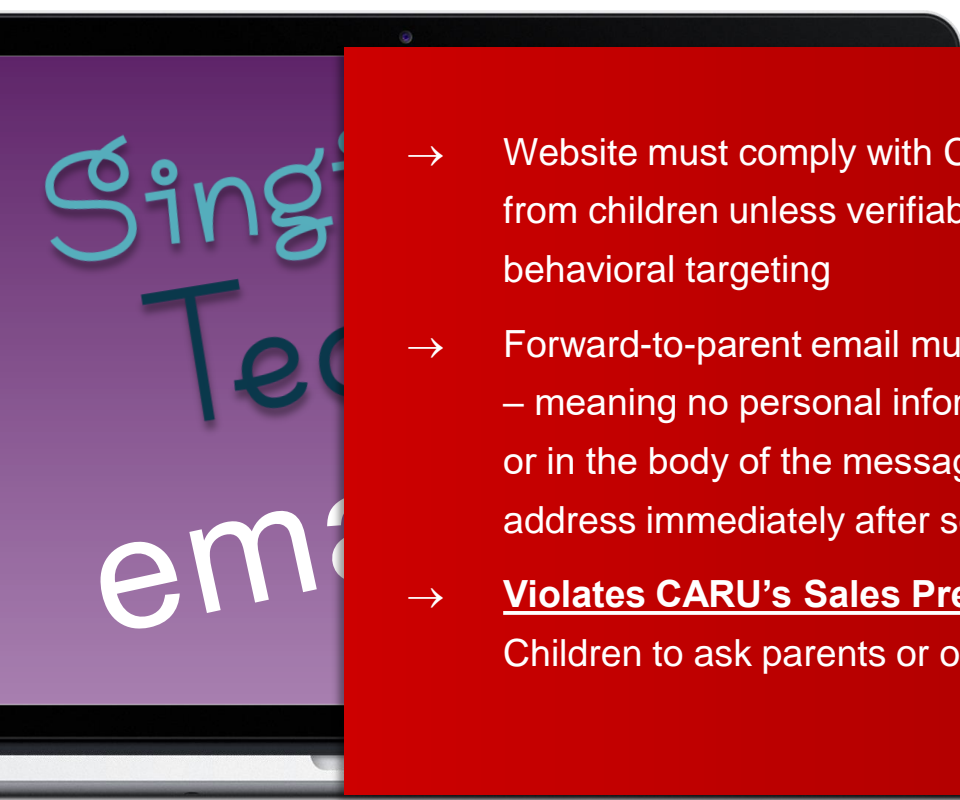
Giggles & Co. will host a paid “Teddy Experiential Event” in the basement of an old NYC building and will use AI to make the event look magical and make it look like celebrities such as Taylor Swift have attended the event (when they have not)

Website and Email Campaign



Giggles & Co. will host a web site promoting Singing Teddy that will allow kids to forward emails to their parents begging them to buy them the doll

Website and Email Campaign

- 
- Website must comply with COPPA and not collect any personal information from children unless verifiable parental consent and must not engage in any behavioral targeting
 - Forward-to-parent email must fall within COPPA's "one time contact exception" – meaning no personal information can be shown in the "from" or "subject" lines or in the body of the message and operator must delete the recipient's email address immediately after sending
 - **Violates CARU's Sales Pressure Guideline:** Advertising should not urge Children to ask parents or others to buy products

Final Takeaways & Final Thoughts



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Questions





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