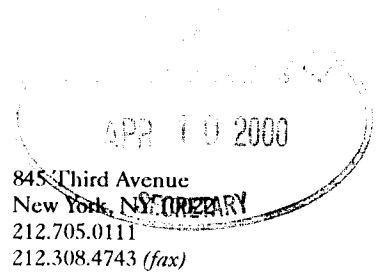




COUNCIL OF BETTER BUSINESS BUREAUS, INC.

Children's Advertising Review Unit



845 Third Avenue
New York, NY
212.705.0111
212.308.4743 (fax)

Secretary
Federal Trade Commission
Room H-159
600 Pennsylvania Ave., NW
Washington, D.C. 20580

Re: CARU Request for Commission Approval of Self Regulatory Guidelines under the Children's Online Privacy Protection Rules

Dear Mr. Secretary:

The Children's Advertising Review Unit (CARU) of the Council of Business Bureaus (CBBB) is pleased to submit this request for Federal Trade Commission ("FTC" or "Commission") approval of its Guidelines for Interactive Electronic Media for Safe Harbor status under § 312.10 of the FTC's rules implementing the Children's Online Privacy Protection Act ("COPPA"). Enclosed are this original and five copies of CARU's application for Safe Harbor along with a 3 1/2-inch disk containing the application in Word 2000, Windows 98 format. CARU is pleased that both COPPA and the Commission's final rule ("the Rule") so closely mirror these Guidelines for Interactive Electronic Media, developed by CARU in 1996. We believe that our proposed Safe Harbor program, which builds on our successful track record of self-regulation of children's advertising, satisfies, and in some cases goes beyond COPPA's requirements.

Introduction and Background

1. Establishment of CARU and Adoption of Self-Regulatory Online Privacy Guidelines

CARU was founded 25 years ago to promote responsible children's advertising as part of a strategic alliance with the major advertising trade associations through the

National Advertising Review Council (comprising AAAA, AAF, ANA and CBBB). CARU is the children's arm of the advertising industry's self-regulation program and evaluates child-directed advertising and promotional material in all media to advance truthfulness, accuracy and consistency with *our Self-Regulatory Guidelines for Children's Advertising* ("the Guidelines") and relevant laws. The program's objectives are to help advertisers deal sensitively with the child audience in a responsible fashion, offering both general advisory services for advertisers and ad agencies and informational materials for parents, educators, and children. CARU's policies and procedures used to address and resolve complaints about advertising are devised by the National Advertising Review Council, and CARU is administered through the Council of Better Business Bureaus (CBBB).¹ CARU is funded by members of the children's advertising industry and its Advisory Council includes leading experts in education, communications and child development, as well as representatives of national advertisers and advertising agencies interested in children's advertising. As a testament to CARU's widespread acceptance, major national children's advertisers and advertising agencies generally support and adhere to the Guidelines in their advertising to children.

While the CARU self-regulatory process was established more than two decades ago, it has evolved to encompass new product categories and marketing venues. Thus, in response to the growth of online media and children's content on the Internet, CARU revised the Guidelines to include its Guidelines for Interactive Electronic Media in 1996, <http://www.bbb.org/caruguid.asp#media>, making further revisions to the Guidelines in 1997 and again this year.

Continuing in the tradition of establishing media-specific guidelines as needed, CARU has taken the lead in protecting children's privacy in online environments, beginning with the development and adoption of its Guidelines for Interactive Electronic Media in 1996. CARU's Guidelines outline the dos and don'ts for the online collection and use of personal information from children under 13 that were later borrowed in large

¹ See attached, The Advertising Industry's Process for Voluntary Self-Regulation, Procedures for the National Advertising Division, the Children's Advertising Review Unit and the National

part by Congress for COPPA, including the important requirements for parental notification and verifiable parental consent. CARU maintains the leading self-regulatory program in the nation for protecting the privacy of children who are asked to provide personal information by online operators. The CARU self-regulatory program was cited by the Commission as an example of successful industry self-regulation in its June 1998 report on the Commission's 1998 survey of Websites directed to children.

2. Current Self-Regulatory Program and Brief Overview of Modifications to Current Procedures for Safe Harbor Purposes

CARU has worked with numerous operators of Websites to achieve voluntary compliance to protect children's personal information and ensure that online advertising also meets our standards. We continue to monitor many of these sites as they create new content and features to ensure their continued commitment to our self-regulatory principles. In addition, CARU routinely patrols the World Wide Web to monitor sites with content directed at children to foster compliance with our Guidelines. When CARU identifies sites with privacy practices that are inconsistent with our Guidelines, we begin an inquiry process to attempt to bring the site into accordance voluntarily. Overall, we have been successful in achieving voluntary compliance and in helping sites create interactive features that do not require children to provide personal information. However, where an operator refuses to implement necessary changes, CARU reports such findings publicly and refers the operator to the appropriate government agency, such as the Commission. These referrals and other decisions are publicized through press releases and in monthly Case Reports, published by the National Advertising Division of the CBBB. Through the Case Reports, CARU publishes formal cases and decisions against advertisers and site operators, as well as informal inquiries resulting in voluntary compliance or finding compliance, and any work with operators requesting pre-screening of their promotions to ensure compliance with our Guidelines.

CARU plans to continue these activities to the maximum extent possible so that it can continue to bring its expertise to a broad array of companies involved in online marketing to children. It envisions its Safe Harbor program being available, however, at least initially, only to qualifying CARU supporters (and their parent and affiliated companies). This will necessitate several changes to the current self-regulatory program for Safe Harbor adherents. For example, to qualify for Safe Harbor status, supporters will be asked to formally denote their agreement (heretofore done informally) to adhere to the CARU dispute resolution process. This process is fully explained in the Procedures, attached as exhibit A. We will require that supporters seeking Safe Harbor status undertake an initial self-assessment of their site(s) (exhibit B), which must be completed and signed by a responsible corporate officer, and will use our customary methods of seeding and monitoring to verify compliance periodically. CARU will check to confirm that the information submitted in the Self-Assessment form accurately describes the site's privacy practices. We will also ask supporters to sign a self-assessment form annually indicating that to the best of their knowledge, information and belief, collection practices at the site(s) comport with the CARU Guidelines. Those accepted into the CARU Safe Harbor program will be entitled to so indicate in their privacy notices on their Websites and in notices directed to parents, and CARU will provide a link from participants' Websites to its own Website as a verification mechanism. The CARU Website also informs visitors of our dispute resolution process.

A detailed description of the components of the CARU program is provided in the following sections per § 312.10 (c) request for Commission approval of self-regulatory guidelines. We are confident that our Guidelines meet the requirements as set out by COPPA and the Rule and that a CARU Safe Harbor program will provide meaningful enforcement mechanisms and help foster safe and enjoyable online experiences for children.

I. The Children's Advertising Review Unit Self-Regulatory Guidelines for Children's Advertising

Per § 312.10 (c)(i), which requires a copy of the full text of the guidelines for which Safe Harbor approval is sought, attached is a copy of the CARU *Self-Regulatory Guidelines for Children's Advertising* (exhibit C). These Guidelines include a section entitled the Guidelines for Interactive Electronic Media that generally contain the requisite components of §§ 312.3 –312.8. However, as stated in the Guidelines, the Guidelines for Interactive Electronic Media are to be read within the broader context of the overall Guidelines, which contain standards and principles applicable to all media. A comparison of our Guidelines to the Rule is provided in section II of this application for Safe Harbor status.

II. Comparison of §§ 312.3-312.8 of the Rule and CARU's Guidelines for Interactive Electronic Media

§ 312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

This section of the Rule states that operators may not collect or maintain information from a child in a manner that violates the Rule. It outlines the general requirements of § 312.4- 312.8, which relate to notice, verifiable parental consent, parental review of information, minimization of information collection and maintaining the security and integrity of any data collected from a child.

The CARU Guidelines are entirely consistent with Section 312.3. Because we base our definition of “notice” on the language in the Rule, our Guidelines necessarily comport with the Rule. The Guidelines state:

CARU's aim is that the Guidelines will always support “notice,” “choice” and “consent” as defined by the Federal Trade Commission, and reflect the latest developments in technology and its application to children's advertising.

The CARU Guidelines, like the Rule, are premised on the notion that advertisers and site operators² should respect and foster the parents' role in overseeing their children's online experiences. In furtherance of this goal, the Guidelines call on advertisers who communicate with children to encourage parents to check and monitor their child's online activities. The Guidelines also recognize that advertisers who are children's Website operators have certain obligations to ensure that online experiences for children are safe and enjoyable. As such, the Guidelines provide that online advertisers must first minimize collection of personal information from children. Where such collection may be needed, the operator must provide notice, in language easily understood by a child, that explains why information is requested, and whether it is intended to be shared, sold or distributed outside the collecting company. The Guidelines

² Under the Guidelines, the term “advertiser” also refers to online operators as defined by COPPA

also state that operators must obtain verifiable parental consent before collecting personal information and that parents should be given a reasonable means to review personal information collected from a child and to refuse to permit further use or maintenance. To comport with these obligations, advertisers must institute procedures to safeguard personal information. A more detailed description of these requirements follows in our comparison of sections 312.4-312.8 of the Rule and our Guidelines.

§ 312.4 (a), (b). Notice, General Principles of Notice, Notice on the Website or Online Service

These sections of the Rule provide that language used in notices or privacy policies be clear and not confusing, that notices be prominently labeled and provided on the operator's home page or wherever personal information is collected from a child. As a starting point, the CARU Guidelines emphasize that advertisers, irrespective of the form of media, should take into account the ability of a child to understand their messages and that language be age appropriate. The first Principle of CARU's Guidelines states:

1. Advertisers should always take into account the level of knowledge, sophistication and maturity of the audience to which their message is primarily directed. Younger children have a limited capacity for evaluating the credibility of information they receive. They also may lack the ability to understand the nature of the information they provide. Advertisers, therefore, have a special responsibility to protect children from their own susceptibilities.

The Data Collection section of the Guidelines for Interactive Electronic Media also includes the following relevant Guideline governing the use of clear and understandable language when information is collected from a child:

2. The advertiser should disclose, in language easily understood by a child, 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 whether the information is intended to be shared, sold or distributed outside of the collecting advertiser company.

Thus, under the Guidelines, language used by an operator in any notice must be clearly understandable to a child audience and the notice must explain why information collection is necessary for the particular activity, how it will be used and whether such information will be shared with third parties. In addition, the Guidelines specifically provide that there be a prominent link to the operator's privacy policy both from the home page and before any information is collected from a child. Guideline 1 of the Data Collection portion of our Guidelines states:

1. In all cases, the information collection or tracking practices and information uses must be clearly disclosed, along with the means of correcting or removing the information. The disclosure notice should be prominent and readily accessible before any information is collected. For instance, in the case of passive tracking, the notice should be on the page where the child enters the site. A heading such as "Privacy", "Our Privacy Policy", "Note to Parents", or similar designation which allows an adult to click to obtain additional information on the site's information collection and tracking practices and information uses is acceptable.

Section 312.4 (b)(2), (c) Content of Notice, Notice to a Parent.

These portions of the Rule outline the required content of the privacy policy and parental notices. Under these sections, operators must (i) identify themselves; (ii) disclose the type of information collected and whether it is gathered directly or passively; (iii) define how personal information is used; (iv) disclose whether personal information is disclosed to third parties, and if so, they must define to whom, the purposes of such sharing, and how information will be protected; (v) not condition a child's participation on information disclosure; and (vi) give parents an opportunity to review or delete information and refuse further use.

CARU's Guidelines are entirely consistent with these sections. While the Guidelines do not specifically state how the operators must identify themselves in the notice or privacy policy, the CARU Guidelines comport with the Commission's definitions of notice. Thus, in order for a policy or parental notice to be compliant with CARU's Guidelines under our Safe Harbor program, information required by the Rule would have to be provided in the notice or privacy policy. Guidelines 2-3 of the Data Collection section (provided below) also provide that operators must explain why

information is collected, how it will be used and whether it is directly collected or whether passive tools such as cookies are used. Guidelines 4-5 call on operators to minimize information collection and Guideline 6 provides that parents and children must be provided with a means to discontinue email communications from an operator. The relevant portions are provided below:

2. The advertiser should disclose, in language easily understood by a child, 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 whether the information is intended to be shared, sold or distributed outside of the collecting advertiser company.
3. If information is collected from children through passive means (e.g., navigational tracking tools, browser files, etc.) this should be disclosed to the child and the parent along with what information is being collected.
4. Advertisers should encourage the child to use an alias (e.g., "Bookworm", "Skater", etc.), first name, nickname, initials, or other alternative to full names or screen names which correspond with an email address for any activities which will involve public posting.
5. If the information is optional, and not required to engage in an activity, that fact should be clearly disclosed in language easily understood by a child (e.g., "You don't have to answer to play the game"). The advertiser should clearly disclose what use it will make of this information, if provided, as in #2 above, and 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.).
6. The interactivity of the medium offers the opportunity to communicate with children through electronic mail. While this is part of the appeal of the medium, it creates the potential for a child to receive unmanageable amounts of unsolicited email. 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 to discontinue receiving mailings.

Principle 5, of the Data Collection section also addresses the right of parents to remove or correct information. It states:

When online contact information is collected and retained to respond directly more than once to a child's specific request (such as an email newsletter or contest) and will not be used for any other purpose, the company must directly

notify the parent of the nature and intended uses and permit access to the information sufficient to permit a parent to remove or correct the information.

Consistent with the Rule's exceptions to the requirement of verifiable parental consent, where CARU compliant sites collect a child's online contact information, a parent's email address is also requested at the time of collection. (To protect the privacy of parents, our Guidelines further provide that parental contact information should be used only for the purposes of providing notification or obtaining requisite consent.) The parent then receives direct notification from the operator that her child has provided information, a description of the information provided and an explanation of the purpose for such collection (i.e. your child has provided her email address to receive a newsletter or participate in a contest). The parent is then told how the information is used (i.e. this information is used to provide the newsletter or for the online contest and will not be shared with third parties) and how parents can review and modify or delete the information to prevent further contact.

Similarly, where online information collection or activities do trigger the need for verifiable parental consent, parents are provided with notice in the consent form explaining that the operator wishes to collect the child's information and why consent is necessitated. This consent form also includes the company information, including contact information. It also explains how the information will be used (i.e. internal uses or a full description of with whom such information may be shared) and that the parent has the option to consent to the collection and use of her child's personal information without consenting to the disclosure of that information to third parties; and that the parent may modify or delete such information, with an explanation of how the parent can do so. (The right of the parent to modify or delete information is explained in further detail in the discussion of Section 312.6). As noted above, an added component to our Safe Harbor program is that the privacy policy or notice of a site participating in the CARU Safe Harbor program will include a statement that the operator intends to comply with our Guidelines and participate in the CARU dispute resolution process if a violation of the Guidelines or Rule is found, as well as information on how to contact CARU. The participating site will be permitted to provide a link from its Privacy Policy to a page on

CARU's Website with a list of participants to verify that they are indeed involved in our self-regulatory process (and remain in good standing). This link will also provide contact information for parents to reach CARU if they have concerns about the operator's practices.

Section 312.5 Parental Consent

This section of the Rule governs notice to a parent, when verifiable parental consent or direct parental notification are required. The CARU Guidelines are completely consistent with the spirit of the parental notice and consent requirements. The CARU Guidelines require Website operators to obtain verifiable parental consent any time the operator collects real world, personal information that would enable a third party to directly contact a child. Thus, the CARU Guidelines require verifiable parental consent when personal information will be shared with or distributed to third parties, except for parties that are agents or affiliates of the company or provide support for the internal operation of the Website and that agree not to disclose or use the information for any other purpose. Verifiable parental consent is also needed where the operator enables the child to disclose this information to third parties as is possible through a bulletin board, chat room or personalized home page.

CARU requires verifiable parental consent to be obtained, using methods deemed to be appropriate and reliable, in any instance where personal information is collected from a child for purposes other than exclusively for internal marketing. CARU currently requires that site operators obtain verifiable parental consent either through toll free numbers that parents can call to register their child, credit card registrations, or signed consent forms received through postal mail or via facsimile. When verifiable parental consent is obtained through a signed consent form sent via postal mail or facsimile, by a parent calling a toll free number or by an approved online method, the parent could also be required to provide a PIN number or password that could be used in the future to modify such consent or to allow the parent to access the specific information collected from the child. The following Principles appear in the Data Collection section of the CARU Guidelines:

2 When personal information (such as email addresses or screen names associated with other personal information) will be publicly posted which will enable others to communicate directly with the child online, or when the child will be able otherwise to communicate directly with others, the company must obtain prior verifiable parental consent.

3 When personal information will be shared or distributed to third parties, except for parties that are agents or affiliates of the company or provide support for the internal operation of the Website and that agree not to disclose or use the information for any other purpose, the company must obtain prior verifiable parental consent.

Thus, where verifiable parental consent is needed, under the Guidelines, the parent must be told why the consent is necessary (i.e. what triggers the need for verifiable consent) and parents must be told how information will be used (i.e. for registration for chat or for third party sharing). Parents must be told how they can review and delete or modify such information as well.

Similarly, where the Rule does not require prior parental consent, but instead requires direct parental notification, (where online information such as e-mail will be used to respond to a specific request, such as contest entry) Guideline 5 of the Data Collection section meets the Rule requirements. It states:

When online contact information is collected and retained to respond directly more than once to a child's specific request (such as an email newsletter or contest) and will not be used for any other purpose, the company must directly notify the parent of the nature and intended uses and permit access to the information sufficient to permit a parent to remove or correct the information.

Where the Rule requires verifiable parental consent – i.e. where personal information is collected and the information is not shared with any third parties (or affiliates with different information collection and disclosure practices), CARU's Guidelines are entirely consistent. Guideline 4 of the Data Collection section states:

When personal information is obtained for a company's internal use, and there is no disclosure, verifiable parental consent may be obtained through the use of email coupled with some additional steps to provide assurance that the person providing the consent is the parent. [The acceptability of this method for obtaining verifiable parental consent will sunset pursuant to the Rule, and is

intended to provide industry the opportunity to develop seamless digital methods of securing verifiable parental consent through technological innovation.]

Section 312.6 Right of parent to review personal information provided by child.

Section 312.6 governs the right of the parent to review personal information provided by a child. In keeping with the CARU principles of respecting and fostering the parents' role in providing guidance for their children, the Guidelines specify that advertisers who communicate with children through email should encourage parents to check and monitor their children's use of email and other online activities regularly. The CARU Guidelines contemplate parental choice, including the choice to discontinue receiving email information or to delete information obtained about a child. For example, the Guidelines state:

Further, these children's Guidelines must be overlaid on the broader, and still developing industry standards for protecting and respecting privacy preferences. These industry standards include disclosure of what information is being collected and its intended uses, and the opportunity for the consumer to withhold consent for its collection for marketing purposes. Thus, in the case of Websites directed to children that collect personal information from children, reasonable efforts, taking into consideration available technology, should be made to establish that notice is offered to, and choice exercised by a parent or guardian.

In all cases, the information collection or tracking practices and information must be clearly disclosed, along with the means of correcting or removing the information.

When online contact information collected and retained to respond more than once directly to a child's specific request (such as an email newsletter or contest) and will not be used for any other purpose, the company must directly notify the parent of the nature and intended uses and permit access to the information sufficient to permit a parent to remove or correct the information.

These principles apply not only where online information is collected and direct notification is required pursuant to the exceptions under the Rule and the Guidelines. They also apply where information collection triggers verifiable parental consent. In cases where more than online information is collected and verifiable parental consent is needed, CARU supports the methods outlined in the Rule for operators to verify that the person seeking such information is the child's parent. Flexibility is key to assuring that

the requirements of the Rule are met and that the site meets its obligations in a manner best suited to its own business model. Thus, when a parent provides parental consent, either by completing a mailed or facsimile consent form, or by calling a toll free registration number, or by an acceptable online means the parent could create a PIN number or password that could be used to modify or delete the child's account. By using a PIN number or password created by the parent, the company would have reasonable assurance that the person seeking to modify or delete information via e-mail is the person that registered or consented to any uses of information in the first place. Parents could also be asked to provide a driver's license or similar accepted method of identification.

Section 312.7. Prohibition against conditioning a child's participation on collection of personal information.

As a starting point, many sites that CARU currently works with to ensure adherence to our Guidelines on advertising and privacy offer a wide array of content without requiring children to provide personal information. Recognizing that some interactive activities may require a child to register with a site or provide personal information, the CARU Guidelines, like Section 312.7, establish that operators should not ask a child to disclose more personal information than is reasonably necessary to participate in the online activity. Guideline 5 of the Data Collection section states:

If the information is optional, and not required to engage in an activity, that fact should be clearly disclosed in language easily understood by a child (e.g., "You don't have to answer to play the game"). The advertiser should clearly disclose what use it will make of this information, if provided, as in #2 above, and 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.).

Similarly, the Guidelines also address this issue in the Sweepstakes and Contests section, point 5, which provides that advertisers should collect as little information as possible from a child entering an online contest. It states:

Online contests should not require the child to provide more information than is necessary and should be limited where possible to information including the child's and parent's email addresses. Per the Data Collection section of the Guidelines, parents should be contacted and receive direct notification when a

child enters a contest to provide offline contact information to fulfill the contest (e.g. verify winner eligibility and send prize).

Section 312.8. Confidentiality, security, and integrity of personal information collected from children.

Operators, to adhere to the requirements of the CARU Guidelines, must have security procedures in place. The relevant provision in this regard states that:

. . .these children's Guidelines must be overlaid on the broader, and still developing industry standards for protecting and respecting privacy preferences.

Companies cannot adhere to the Guidelines absent internal security mechanisms that protect children's personal information from loss, misuse, unauthorized access, or improper disclosure without consent. The CARU Guidelines recognize that security techniques are constantly evolving and changing, in part as a result of the ingenuity of hackers. Typical procedures that might be adopted include those outlined by the FTC, and the CARU staff inquires about the specific procedures used by a Website in their checks of Websites.

III. The CARU Assessment Mechanism Meets the Requirements of the Rule

Section 312.10(b)(2) requires that a "mandatory mechanism" be used to conduct an assessment of compliance with self-regulatory guidelines. Since the mandatory mechanism required is a performance standard, and the Commission has set out various alternatives for achieving this standard, CARU intends to attain compliance primarily using a combination of three mechanisms.

First, CARU will continue to conduct both routine monitoring and the review of online practices and seeding already used in order to achieve voluntary compliance with our Guidelines for Interactive Electronic Media. CARU has experienced significant success in working with a number of site operators, even prior to the enactment of COPPA and the promulgation of the Rule, to achieve voluntary compliance with our Guidelines using these two methods. In our experience, operators have not only worked to become compliant when contacted by us, but have proactively sought our help when they create new areas or features of their sites to ensure continued compliance. To bolster the effectiveness of our program, site owners that seek to qualify as "Safe Harbored operators," will be required to provide an Assessment Certificate, including an explanation of the operator's data collection and privacy protection practices. As a part of the assessment, the company will also be required to pledge to adhere both to the Guidelines and to participate in the dispute resolution process offered by CARU. The mechanisms we intend to use to satisfy COPPA's Safe Harbor requirements are described in detail below.

1. Routine Monitoring coupled with a Self-assessment Certificate:

CARU currently conducts comprehensive reviews of information collection and privacy practices of sites that either voluntarily seek compliance or those that come to our attention via routine patrolling of children's online areas. When CARU conducts an initial review of a site's practices (see attached Website Review Form, Exhibit D), CARU

first reviews the site to ensure that it has a privacy policy. The policy must include all components outlined in the Guidelines and as defined by the Rule and must be prominently featured on the homepage and linked in all areas where the site collects personal information.

CARU then reviews the site for consistency with the privacy policy. For example, if the privacy policy states that the site does not collect any information from users or only uses cookies without any other personal information, CARU reviews the entire site to determine that there are no areas where a child is asked for information. If the site's privacy policy states that information is collected for participation in certain areas, CARU then reviews any features that require a child to provide personal information to determine whether the information collection triggers a need for direct parental notification or verifiable parental consent. (If the site's privacy policy fails to state that information is collected or if the site fails to provide direct parental notification or obtain verifiable parental consent, CARU begins an informal inquiry to seek changes for the site to become compliant. Where an operator does not make the necessary changes or fails to remove non-compliant content, a formal case may be opened.) (See section IV for an explanation of CARU's enforcement mechanism/ case procedures)

For example, when CARU reviews an online contest, CARU seeks to ensure compliance with the sections of our Guidelines governing Sweepstakes and Contests and sections of the Guidelines for Interactive Electronic Media that govern Data Collection to ensure:

- 1) that no more data than is necessary is collected, and
- 2) that there is a prominent link to a compliant privacy policy on the site's home page and in all places where personal information will be collected.

Under CARU's Guidelines, operators are encouraged to collect only a child's and parent's email address for online contests as permitted also by section 312.5(c)(3) of COPPA. If only email information is collected, CARU seeks to ensure the parent

receives direct notification that their child has entered the contest (the direct notification requirements are discussed in detail above in section II). When a winner is selected, we recommend that the site operator directly notify the parent of the child who has won to obtain any necessary winner eligibility/verification information or offline contact information as may be required.

For operators that seek to participate in the CARU Safe Harbor program, the initial review conducted by CARU would also require the operator to provide a self-assessment document further explaining the information practices. The self-assessment document asks the Website operator to describe:

- the types of information collected from children at the operator's site
- how the information is collected (e.g. passive tools or direct collection through site registration, contest entries, or the like)
- whether children may be contacted by third parties or may directly contact others through site features (e.g. chat, bulletin boards)
- how parents receive direct notification of the collection of their child's information
- how verifiable parental consent (if necessitated by features on the site) is obtained
- how the information is used (e.g. internal uses, third party sharing) and by whom (i.e. operators will have to identify all third parties and partners)
- what type of protection is accorded data to ensure its integrity from outside abuse (by hackers); and what type of internal mechanisms are used to protect data from employee abuse
- data retention and how parents are provided the ability to delete or modify their child's information

After the initial site review is complete, CARU will conduct routine monitoring and patrolling periodically throughout the year to ensure continued compliance. The CARU Safe Harbor program will include a requirement that participants advise CARU of any material change in the information collection practices previously adopted at the site. This, again, is merely a formalization of existing practice, as currently, sites that are

CARU compliant frequently seek our assistance and approval when new features requiring children to provide personal information are created. The operator's practices will be reviewed periodically on an unannounced basis, and a self-assessment statement must be submitted to the CARU staff annually.

2. Seeding

CARU will "seed" any sites that seek to participate in our Safe Harbor program. Seeding will offer us the ability to ensure that the operator's information practices are consistent with those stated in the privacy policy or notices to parents and the information provided by the company to CARU. This will mean that CARU will create a unique registration, as a child, and will supply the necessary registration information such as an email address and unique parental email address or any other information collected from child users. We will then have the ability to review the parental notice to ascertain that all of the necessary information is provided. We will be able to determine that information is not being utilized by the site for other purposes since we will have the ability to review the unique email account created for the child to see what type of messages are sent to the account. By creating a unique registration, we will also be able to determine whether the site is minimizing information collection as our Guidelines recommend.

Where a site needs to obtain verifiable parental consent for a child to participate in a site feature, CARU will complete an offline method of parental registration. Thus, depending on the method used by the site to obtain offline verification, CARU will follow the same procedures as would a parent. This will provide us with a method of ascertaining that the site is actually obtaining consent as required, and that the parent is offered a method to delete or modify the information collected. Thus, after completing a unique registration with the site, CARU will seek to modify or delete the information to test the site's practices.

IV. The CARU Compliance Incentives Provide Proven, Effective Enforcement of Our Guidelines and the Rule

In the Rule, the listed optional incentives for compliance with self-regulatory guidelines, include (i) mandatory, public reporting of disciplinary action taken against subject operators by the industry group promulgating the guidelines; (ii) consumer redress; (iii) voluntary payments to the United States Treasury in connection with an industry-directed program for violators of the guidelines; or (iv) referral to the Commission of operators who engage in a pattern or practice of violating the guidelines. The Procedures for the National Advertising Division/ Children's Advertising Review Unit/ National Advertising Review Board ("the Procedures") already provide an enforcement mechanism that meets the standard set out by the rule.

Under the Procedures, an operator who appears to be in violation of our guidelines is contacted by CARU and asked to make changes necessary to conform her practices to CARU's guidelines and the Rule. If the operator has harmed a user (for example, by transferring personal information, without verifiable parental consent, to a third party), CARU will seek to have the operator repair that harm. CARU might, for example, ask the operator to retrieve that information from the third party and ensure that it is not used by itself, the party to whom it was transferred, or any subsequent transferee.

Currently, as required by the Procedures, where an actor fails to voluntarily comply with the Guidelines after CARU has opened a formal case against the operator, CARU refers the case to the Commission. Additionally, Section 2.1 (C) of the Procedures requires that through press releases and in the monthly NAD Case Reports, published by the National Advertising Division of the Council of Better Business Bureaus, CARU reports formal cases against advertisers and site operators. Press releases and information about recent decisions are also available on the CARU Website. Thus, public reporting is also a requirement of our program.

In addition to referral to the Commission and public reporting, CARU will also have the right to require the operator to remove any link or statement in its privacy policy

that refers to its status as a participant in good standing in the CARU Safe Harbor program. CARU will also remove the URL/name of the operator's Website from its list of operators in good standing on the CARU Website where a site is non-compliant.

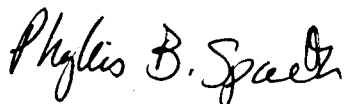
In Conclusion

CARU commends the Commission for its efforts in promulgating the Rule under COPPA. We believe that the Rule provides a meaningful explanation of COPPA and has devised the protocols necessary to implement it. Moreover, since CARU's *Self-Regulatory Guidelines for Children's Advertising*, which include our Guidelines for Interactive Electronic Media, provided the philosophical underpinnings for both COPPA and the Rule, we believe that CARU has the ability to offer an effective Safe Harbor program, that will promote consumer confidence, children's safety and privacy and foster good practices by online operators as envisioned by the Commission.

Respectfully submitted,



Elizabeth Lascoutx, Esq.
Vice President/Director



Phyllis Spaeth, Esq.
Staff Attorney

**National Advertising Division, Children's Advertising Review Unit & National
Advertising Review Board**

Procedures

**Voluntary Self-Regulation of National Advertising
Effective November 1, 1998 (As amended, July 30, 1998)**

Index

- 1.1 Definitions
- 2.1 NAD/CARU
- 2.2 Complaints
- 2.3 Parties to NAD/CARU/NARB Proceedings
- 2.4 Information in NAD/CARU Proceedings
- 2.5 Response
- 2.6 Reply
- 2.7 Additional Responses
- 2.8 Decision
- 2.9 Failure to Respond
- 2.10 CARU Expedited Procedure
- 3.1 Appeal
- 3.2 Appointment of Review Panel
- 3.3 Eligibility of Panelists
- 3.4 Composition of Review Panel
- 3.5 Procedure of Review Panel
- 3.6 Timing and Reporting of Panel Decisions
- 3.7 Closing a Case
- 3.8 Confidentiality of Panel Procedures
- 4.1 Compliance

General Provisions

- 5.1 Amendment of Standards
- 5.2 Use of Consultive Panels for Matters Other Than Truth and Accuracy, or
Consistency with CARU's Self-Regulatory Guidelines for Children's Advertising
- 5.3 Consultive Panels
- 5.4 Panel Procedures
- 5.5 Confidentiality
- 5.6 Position Paper
- 5.7 Voting on Publication
- 5.8 Publication

1.1 Definitions

A. The term "national advertising" shall include any paid commercial message, in any medium (including labeling), if 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; if it is disseminated nationally or to a substantial portion of the United States, or is test market advertising prepared for national campaigns; and if the content is controlled by the advertiser.

B. The term "advertiser" shall mean any person or other legal entity who engages in "national advertising."

C. The term "advertising agency" shall mean any organization engaged in the creation and/or placement of "national advertising." The term "public or non-industry member" shall mean any person who has a reputation for achievements in the public interest.

2.1 NAD/CARU

A. Function and Policies

The National Advertising Division of the Council of Better Business Bureaus (hereinafter NAD), and the Children's Advertising Review Unit (CARU), shall be responsible for receiving or initiating, evaluating, investigating, analyzing (in conjunction with outside experts, if warranted, and upon notice to the parties), and holding negotiations with an advertiser, and resolving complaints or questions from any source involving the truth or accuracy of national advertising, or consistency with CARU's Self-Regulatory Guidelines for Children's Advertising.

B. Advertising Monitoring

NAD and CARU are charged with independent responsibility for monitoring and reviewing national advertising for truthfulness, accuracy and, in the case of CARU, consistency with CARU's Self-Regulatory Guidelines for Children's Advertising.

C. Case Reports

The Council of Better Business Bureaus shall publish at least ten times each year the Case Reports, which will include the final case decisions of NAD, CARU and NARB, and summaries of any other matters concluded since the previous issue. Each final NAD, CARU and NARB case decision shall identify the advertiser, challenger, advertising agency, product or service, and subject matter reviewed. It shall also include a summary of each party's position, NAD, CARU or the NARB's decision and its rationale, and a concise Advertiser's Statement, if any. (See Section 2.8). CARU shall publish in the Case Reports a summary of CARU's actions, other than formal cases, during the preceding month. Included in this Activity Report, shall be the following:

i. Inquiries—summaries of informal inquiries under CARU's Expedited Procedures (see Section 2.10 below);

- ii. Pre-Screening/Submissions-summaries of storyboards or videotapes of proposed advertising submitted to CARU for prescreening; and
- iii. Commentaries-information, either news or policy, which CARU believes is appropriate to disseminate to its readership.

D. Confidentiality of NAD/CARU Proceedings

It is the policy of the National Advertising Division of the Council of Better Business Bureaus not to endorse any company, product, or service, and a decision of "Advertising Substantiated" (see Section 2.8) should not be construed as such. Correspondingly, an advertiser's voluntary modification of advertising, in cooperation with NAD/CARU's self-regulatory efforts, is not to be construed as an admission of any impropriety. To ensure the integrity and cooperative nature of the review process, parties to NAD/CARU proceedings must agree: 1) to keep the proceedings confidential throughout the review process; and 2) not to subpoena any witnesses or documents from NAD/CARU/NARB regarding the review proceeding in any future court or other proceeding (except for the purpose of authentication of a final, published case decision by a staff member) and to pay attorneys fees and costs if such a subpoena is attempted and successfully resisted; and, 3) after a decision has been published, not to mischaracterize any NAD/CARU/NARB case decision or use and/or disseminate any NAD/CARU/NARB case decision for any advertising and/or promotional purposes. NAD/CARU may issue a public statement, for clarification purposes, if any party violates any of the provisions of this Section.

E. Referrals to Law Enforcement Agencies.

When NAD/CARU commences a review pursuant Section 2.2 of these Procedures, and the advertiser elects not to participate in the self-regulatory process, NAD/CARU shall prepare a review of the facts with relevant exhibits and, after consultation with the NARB Chair, shall forward them to the appropriate federal or state law enforcement agency. Reports of such referrals shall be included in the Case Reports.

2.2 Complaints

A. Any person or legal entity, including NAD/CARU as part of their monitoring responsibility pursuant to Section 2.1 (B) of these Procedures, may submit to NAD/CARU any complaint regarding national advertising, regardless of whether it is addressed to consumers, to professionals or to business entities. All complaints (except those submitted by consumers), including any supporting documentation, must be submitted in duplicate.

B. Upon receipt of any complaint, NAD/CARU shall promptly acknowledge receipt of the complaint and, in addition, shall take the following actions:

i. If, at the commencement or during the course of an advertising review proceeding, NAD/CARU concludes that the advertising complained of is: (a) not national in character; (b) the subject of pending litigation or an order by a court; (c) the subject of a federal government agency consent decree or order; (d) permanently withdrawn from

Exhibit A

use prior to the date of the complaint and NAD/CARU receives the advertiser's assurance, in writing, that the representation(s) at issue will not be used by the advertiser in any future advertising for the product or service; (e) of such technical character that NAD/CARU could not conduct a meaningful analysis of the issues; or (f) without sufficient merit to warrant the expenditure of NAD/CARU's resources, NAD/CARU shall advise the challenger that the complaint is not, or is no longer, appropriate for formal investigation in this forum. Upon making such a determination, NAD/CARU shall advise the challenger that a case will not be opened, or in the event that an advertising review proceeding has already been commenced, shall administratively close the case file and report this action in the next issue of the Case Reports. When it can, NAD/CARU shall provide the challenger with the name and address of any agency or group with jurisdiction over the complaint.

ii. If the complaint relates to matters other than the truth or accuracy of the advertising, or consistency with CARU's Self-Regulatory Guidelines for Children's Advertising, NAD/CARU shall so advise the challenger, as provided above, and where a significant national advertising issue is raised, shall forward a copy of the complaint to the NARC President who, in consultation with the NARB Chair, shall consider whether the complaint is appropriate for a consultive panel.

iii. If the complaint relates to the truth or accuracy of a national advertisement, or consistency with CARU's Self-Regulatory Guidelines for Children's Advertising, NAD/CARU shall promptly forward the complaint by facsimile, overnight, or electronic mail to the advertiser for its response.

iv. Complaints regarding, specific language in an advertisement, or on product packaging or labels, when that language is mandated or expressly approved by federal law or regulation; political and issue advertising, and questions of taste and morality (unless raising questions under CARU's Self-Regulatory Guidelines for Children's Advertising), are not within NAD/CARU's mandate. If the complaint, in part, relates to matters other than the truth and accuracy of the advertising, or consistency with CARU's Self-Regulatory Guidelines for Children's Advertising, NAD/CARU shall so advise the challenger .

v. NAD/CARU reserves the right to refuse to open or to continue to handle a case where a party to an NAD/CARU proceeding publicizes, or otherwise announces, to third parties not directly related to the case the fact that specific advertising will be, is being, or has been, referred to NAD/CARU for resolution. The purpose of this right of refusal is to maintain a professional, unbiased atmosphere in which NAD/CARU can effect a timely and lasting resolution to a case in the spirit of furthering voluntary self-regulation of advertising and the voluntary cooperation of the parties involved.

C. Complaints originating with NAD and/or CARU shall be considered only after the General Counsel of the NARB has reviewed the proposed complaint and has determined that there is a sufficient basis to proceed. This provision shall not apply to complaints originating from CARU's monitoring of advertising.

D. In all cases, NAD/CARU shall advise the advertiser of the identity of the challenger.

E. The Chair and/or Executive Director of the NARB shall report to the NARB at its annual meeting on, among other things, the number, source and disposition of all appeals received by the NARB. The first issue of the Case Reports each calendar year shall include a summary, prepared by NAD/CARU, which includes the number, source and disposition of all complaints received and cases published by NAD/CARU during the prior year.

2.3 Parties to NAD/CARU/NARB Proceedings

The parties to the proceeding are (i) NAD/CARU acting in the public interest, (ii) the advertiser acting in its own interest, and (iii) the challenger(s), whose rights and obligations in an NAD/CARU/NARB proceeding are defined in sections 2.2, 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 3.1, 3.2, 3.3, 3.5, and 4.1.

2.4 Information in NAD/CARU Proceedings

A. All information submitted to NAD/CARU by the challenger and the advertiser, pursuant to Sections 2.4 through 2.7 of these Procedures, shall be submitted in duplicate. Upon receipt of a filing by any party, NAD/CARU shall forward a copy to the other party by messenger, facsimile, electronic or overnight mail. All transmittals by NAD/CARU during the course of an advertising review proceeding shall be paid for by the challenger, unless the challenger is a consumer or otherwise demonstrates economic hardship, in which case all transmittals shall be paid for by NAD/CARU.

B. Time periods for all submissions to NAD, CARU and NARB shall commence on and include the first day of business following the date of delivery of the triggering document and shall not include Saturdays, Sundays or Federal holidays.

C. NAD/CARU shall not consider any data submitted by a challenger which has not been made available to the advertiser, and any materials submitted by a challenger on condition that they not be shown to the advertiser shall promptly be returned. In the case of studies, tests, polls and other forms of research, the data provided should be sufficiently complete to permit expert evaluation of such study, poll, test or other research. NAD/CARU shall be the sole judge of whether the data are sufficiently complete to permit expert evaluation. If a party initially submits incomplete records of data that is then in its possession, and later seeks to supplement the record, NAD/CARU may decline to accept the additional data if it determines that the party's failure to submit complete information in the first instance was without reasonable justification.

D. A challenged advertiser may submit trade secrets and/or proprietary information or data (excluding any consumer perception communications data regarding the advertising in question) to NAD/CARU with the request that such data not be made available to the challenger, provided it shall: (i) clearly identify those portions of the submission that it is

requesting be kept confidential in the copy submitted for NAD/CARU's review; and (ii) redact any confidential portions from the duplicate copy submitted to NAD/CARU for NAD/CARU to forward to the challenger; (iii) provide a written statement setting forth the basis for the request for confidentiality; (iv) affirm that the information for which confidentiality is claimed is not publicly available and consists of trade secrets and/or proprietary information or data; and (v) attach as an exhibit to NAD/CARU's and the complainant's copy of the submission a comprehensive summary of the proprietary information and data (including as much non-confidential information as possible about the methodology employed and the results obtained) and the principal arguments submitted by the advertiser in its rebuttal of the challenge. Failure of the advertiser to provide this information will be considered significant grounds for appeal of a decision by a challenger. (See Section 3.1)

E. Prior to the transfer of data to the advertiser or challenger, NAD/CARU shall obtain assurances that the recipients agree that the materials are provided exclusively for the purpose of furthering NAD/CARU's inquiry; circulation should be restricted to persons directly involved in the inquiry, and recipients are required to honor a request at the completion of the inquiry that all copies be returned.

2.5 Response

The advertiser may, within 15 business days after receipt of the complaint, submit to NAD/CARU, in duplicate, a written response that provides substantiation for any advertising claims or representations challenged, any objections it may have to the proceedings on jurisdictional grounds, as defined in Sections 2.2(B)(i)-(v), together with copies of all advertising, in any medium, that is related to the campaign that includes the challenged advertising.. Advertiser responses addressed to the issue of NAD/CARU jurisdiction, should be submitted as soon as possible , but in any event, must be submitted no later than 15 days after the advertiser receives the initial complaint. (See also Section 2.9 Failure to Respond.)

2.6 Reply

If the advertiser submits a written response, NAD/CARU shall promptly forward the copy of that response prepared by the advertiser for the challenger, that shall have any material designated as confidential redacted, and shall include, as an exhibit, a comprehensive summary of the redacted information in the manner set forth in Section 2.4 above. Within ten business days of receipt of the advertiser's response, the challenger shall submit two copies of its reply, if any, to NAD/CARU.

2.7 Additional Response

A. If the challenger submits a reply, NAD/CARU shall promptly forward a copy of that reply to the advertiser. Within ten business days after receipt of the complainant's reply, the advertiser shall submit a response, if any. If the challenger does not submit a reply, NAD/CARU shall proceed to decide the challenge upon the expiration of the

complainant's time to reply, subject to a request by NAD/CARU for additional comments or data under Section 2.7(B).

B. In the event that NAD/CARU requests further comments or data from an advertiser or challenger, the written response must be submitted within six business days of the request. NAD/CARU will immediately forward the additional response to the advertiser or challenger, who will be afforded six business days to submit its own response to the submission. Unless NAD/CARU requests further comments or data under this paragraph, no additional submissions will be accepted as part of the case record, and any unsolicited submissions received by NAD/CARU will be returned.

C. NAD/CARU, in its discretion, may, in addition to accepting written responses, participate in a meeting, either in person or via teleconference, with either or both parties. In the event that NAD/CARU participates in a meeting in which only one party participates, NAD/CARU shall notify the other party that a teleconference or meeting has been scheduled to take place and after the meeting shall summarize the substance of the information exchanged for the other party. Where feasible, upon request, an advertiser shall be afforded the opportunity to schedule its meeting with NAD/CARU after the date of challenger's meeting.

D. The period of time available for all communications, including meetings and written submissions, shall not exceed the time limits set forth in Sections 2.4 through 2.7 above except upon agreement of NAD/CARU and the parties.

2.8 Decision

A. Within 15 business days of its receipt of the last document authorized by Rules 2.5 to 2.7, above, NAD/CARU will formulate its decision on the truth and accuracy of the claims at issue, or consistency with CARU's Self-Regulatory Guidelines for Children's Advertising; prepare the "final case decision;" provide a copy to the advertiser and invite the advertiser to add an Advertiser's Statement within ten business days of receipt. In the event that NAD/CARU decides some or all of the advertising claims at issue are not substantiated, the Advertiser's Statement shall state whether the advertiser agrees to modify or discontinue the advertising or chooses to take the issues to appeal, as specified in Section 3.1. The Advertiser's Statement should be concise and may not exceed one double spaced page in length. Whether complying or appealing, an advertiser may include in this statement an explanation of why it disagrees with NAD/CARU. However, this is not the venue to reargue the merits of the case, bring in new facts, or restate or summarize NAD/CARU's conclusions. NAD/CARU reserves the right, upon consultation with the advertiser, to edit for length or inappropriate material. Upon receipt of the final version of the Advertiser's Statement, NAD/CARU shall provide copies of the "final case decision" to the advertiser and the challenger, by facsimile, electronic or overnight mail or messenger, and make the decision available to the public through press announcements and publication of the decision in the next Case Reports.

B.NAD/CARU's decisions in the Case Reports shall be published under the headings:

- Advertising Substantiated
- Advertising Referred to NARB
- Advertising Modified or Discontinued
- Advertising Referred to Government Agency
- No Substantiation Received
- Compliance

2.9 Failure to Respond

A. If an advertiser fails to file a substantive written response within the period provided in Section 2.5 above, NAD/CARU shall release to the press and the public a "notice summarizing the advertising claims challenged in the complaint, and noting the advertiser's failure to substantively respond.

B. If the advertiser fails to file a substantive written response within an additional 15 business days, NAD/CARU, may refer the file to the appropriate government agency and release information regarding the referral to the press, the public, and the media in which the advertising at issue has appeared, and shall report the referral in the next issue of the Case Reports.

C. If a challenger fails to file a reply within the time provided by Rule 2.6, or an advertiser fails to file a response within the time provided in Rule 2.7, the untimely document shall not be considered by NAD/CARU, or by any panel of the NARB.

2.10 CARU Expedited Procedure

Notwithstanding 2.2 through 2.9 above, if the advertiser responds within five business days of receipt of a complaint regarding non-compliance with CARU's Guidelines and the advertising is substantiated, or if within an additional five business days the advertising is modified to comply with CARU's Guidelines, no formal case will be opened, and the results will be published in the CARU Activity Report.

3.1 Appeal

A. When an advertiser does not agree to comply with NAD/CARU's decision on one or more issues involved in a case, the advertiser shall be entitled to panel review by the NARB. To appeal an NAD/CARU decision, an advertiser shall make a request for a referral to the NARB and specify any and all issues for its appeal in the Advertiser's

Statement it prepares in response to NAD/CARU's decision pursuant to Section 2.8(A). In such cases, NAD/CARU shall publish its decision and the Advertiser's Statement in the next Case Reports, under the heading "Advertising Referred to NARB" .

B. Within ten business days after the date of receipt of a copy of NAD/CARU's final case decision, the challenger may request review by the NARB by filing a letter, not to exceed 20 double spaced pages plus any relevant attachments from the NAD/CARU case record, explaining its reasons for seeking review. The letter should be addressed to the Chair, NARB, Attention: Executive Director, 845 Third Avenue, New York, NY 10022. A copy of this letter shall be sent by the challenger to the advertiser and to NAD/CARU. Within ten business days after receipt of the copy of the request for review, the advertiser may and NAD/CARU shall submit a response to the NARB Chair, not to exceed 20 double spaced pages plus any relevant attachments from the NAD/CARU case record. A copy of the advertiser's and NAD/CARU's responses shall be sent by the advertiser and NAD/CARU, respectively, to the other parties, except that portions of the case record that were submitted to NAD/CARU on a confidential basis shall not be sent to the challenger unless the advertiser consents. No other submissions shall be made to the NARB Chair. These letters, together with the relevant sections of the case record provided by the parties, will be reviewed by the NARB Chair, NARB, who within ten business days after the time for the last submission under this rule has expired shall (1) determine if there is no substantial likelihood that a panel would reach a decision different from NAD/CARU's decision; or (2) proceed to appoint a review panel as outlined in Section 3.2. The NARB Chair shall return the record to NAD/CARU after (s)he makes his or her determination. With the exception of the time period within which a challenger must file a request for NARB review of an NAD/CARU decision, the Chair, NARB, reserves the right to extend the time intervals provided in this Section for good cause, notifying all interested parties of such extension.

C. If the advertiser appeals to the NARB pursuant to Section 3.1(A), or if the NARB Chair grants a complainant's request for NARB review pursuant to Section 3.1(B), NAD/CARU shall prepare the relevant portions of the case record and forward them to the NARB within five business days. The NARB shall thereafter make copies of and mail the case record to the parties, except that portions of the case record that were submitted to NAD/CARU on a confidential basis shall not be sent to the challenger unless the advertiser consents. All NARB copying and transmittal costs incurred as a result of an appeal or request for appeal, pursuant to Sections 3.1 through 3.6 of these Procedures, shall be paid for by the appellant. Where the advertiser and the challenger both appeal, these costs shall be divided equally between them. In any event, NARB shall pay these costs for any party that can demonstrate economic hardship. The party appealing shall, within ten business days of receipt of the case record prepared by NAD/CARU, submit to the NARB Chair, addressed as indicated in Section 3.1(B), a letter not to exceed 30 double spaced pages explaining its position. A copy of the letter shall be sent by the appellant to the other parties, who shall each have ten business days of receipt of which to submit a response, not to exceed 30 double spaced pages, to the NARB Chair, with copies to the other parties. No other submissions shall be made.

D. In the event that the advertiser shall exercise its right to an appeal under Section 3.1(A), the challenger shall have the right to appeal any additional issues considered by the NAD/CARU that have not been appealed by the advertiser. In the event that a challenger's request to appeal is granted by the NARB Chair under Section 3.1(B), the advertiser may appeal any additional issues considered by the NAD/CARU that have not been appealed by the challenger, notwithstanding that its time to file an appeal as of right has expired. The challenger or advertiser may exercise the right to appeal under this paragraph by submitting a letter to the NARB at the address listed in Section 3.1(B), requesting the appeal and specifying the additional issues it wishes to appeal. In the case of the challenger, the letter shall be due within five business days of receipt of the final case decision with the advertiser's statement indicating the advertiser's election to appeal; in the case of the advertiser, the letter is due within five business days of the date of receipt of the NARB Chair's determination granting the challenger's request to appeal. Copies of these letters shall be sent by the issuing party to all of the other parties. The advertiser shall be deemed thereafter to be the appellant for purposes of the order of submissions.

3.2 Appointment of Review Panel

The Chair, upon receipt of an appeal by an advertiser, or upon granting a request to appeal by a challenger, shall appoint a panel of qualified NARB members and designate the panel member who will serve as panel Chair.

3.3 Eligibility of Panelists

An "advertiser" NARB member will be considered as not qualified to sit on a particular panel if his/her employing company manufactures or sells a product or service which directly competes with a product or service sold by the advertiser involved in the proceeding. An "agency" NARB member will be considered as not qualified if his/her employing advertising agency represents a client which sells a product or service which directly competes with the product or service involved in the proceeding. A NARB member, including a non-industry member, shall disqualify himself/herself if for any reason arising out of past or present employment or affiliation (s)he believes that (s)he cannot reach a completely unbiased decision. In addition, the Executive Director shall inform the advertiser, challenger, and the Director of NAD/CARU of their right to object, for cause, to the inclusion of individual panel members, and to request that replacement members be appointed. Requests will be subject to approval by the NARB Chair. If the NARB Chair is unable to appoint a qualified panel, (s)he shall complete the panel by appointing one or more alternate NARB member(s).

3.4 Composition of Review Panel

Each panel shall be composed of one "public" member, one "advertising agency" member, and three "advertiser" members. Alternates may be used where required. The panel will meet at the call of its chair, who will preside over its meetings, hearings and deliberations. A majority of the panel will constitute a quorum, but the concurring

vote of three members is required to decide any substantive question before the panel. Any panel member may write a separate concurring or dissenting opinion which will be published with the majority opinion.

3.5 Procedure of Review Panel

A. As soon as the panel has been selected, the Executive Director will inform all parties as to the identity of the panel members. At the same time, (s)he will mail copies of all submissions under Section 3.1(C) to each of the panel members, and will, in like manner, send them any response or request submitted by any other party or parties. Within ten days after receiving copies of the appeal, the panel members shall confer and fix the time schedule that they will follow in resolving the matter.

B. The panel, under the direction of its chair, should proceed with informality and speed. If any party to the dispute before NAD/CARU requests an opportunity to participate in the proceedings before the panel, (s)he shall be accommodated. All parties to a matter before the panel shall be given ten days notice of any meeting at which the matter is to be presented to the panel. Such notice shall set out the date and place of the meeting, and the procedure to be followed.

C. The case record in NAD, CARU and/or NARB proceedings shall be considered closed upon the publication of the "final case decision" as described in Section 2.8. No factual evidence, arguments or issues will be considered within the case record if they are introduced after that date.

D. The decision of the panel will be based upon the portion of the record before NAD/CARU which it has forwarded to the panel, the submissions under Section 3.1 (C), and any summaries of the record facts and arguments based thereon which are presented to the panel during its meeting with the parties. A party may present representatives to summarize facts and arguments which were presented to NAD/CARU, and these persons may be questioned by members of the panel. If the advertiser has declined to share any of its substantiation with the challenger, the panel will honor its request for confidentiality, even though the challenger may have instituted the appeal. The challenger will therefore be excluded from the meeting during the time when such confidential substantiation is being discussed by the panel with NAD/CARU and the advertiser. No facts or arguments will be considered by the panel if they are outside the facts presented to, or inconsistent with the arguments made before, NAD/CARU. However, in the event that newly discovered, significant evidence germane to the issues to be decided by the panel becomes available, the panel may remand the case back to NAD/CARU for its further consideration and decision.

3.6 Timing and Reporting of Panel Decisions

When the panel has reached a decision, it shall notify the NARB Chair of its decision and the rationale behind it in writing and shall endeavor to do so within 15 business days. The Chair, upon receipt of a panel's decision, shall transmit such decision and rationale to

NAD/CARU and then to the advertiser. The advertiser then has five business days to respond indicating its acceptance, rejection or any comments it may wish to make on the panel's decision and shall state whether or not it will comply with the panel's decision.

Thereafter, the Chair shall notify other parties to the case of the panel's decision, incorporating therein the response from the advertiser, and make such report public.

In the event that a panel has determined that an advertising claim has not been substantiated or is untruthful and/or inaccurate, and the advertiser fails to indicate that the specific advertisement(s) will be either withdrawn or modified in accordance with the panel's findings within a time period appropriate to the circumstances of the case, the Chair will issue a Notice of Intent to the advertiser that the full record on the case will be referred to the appropriate government agency. If the advertiser fails to respond or does not agree in writing to comply with the decision of the panel within ten days of the issuance of the Notice of Intent, the Chair shall so inform the appropriate government agency by letter, shall offer the complete NARB file upon request to such government agency, and shall publicly release his/her letter.

3.7 Closing a Case

When a case has been concluded with the publication of a NAD/CARU decision or, when a panel has turned over a decision to the Chair, and when the Chair has executed the procedures in Section 3.6 of these "Procedures," the case will be closed and, absent extraordinary circumstances, no further materially similar complaints on the claim(s) in question shall be accepted by NAD/CARU or NARB, except as provided for in Section 4.1.

3.8 Confidentiality of Panel Procedures

All panels, through the Executive Director, shall maintain a record of their proceedings, but a verbatim record is not required. All deliberations, meetings, proceedings and writings of a panel other than the written statement of its conclusions and the rationales behind them shall be confidential, with the sole exception of those which the Chair of the NARB determines must be made available to an agency of the government. A published NAD/CARU decision and an NARB Panel Report, in those cases referred to a panel, are the only permanent records required to be kept as to the basis of an inquiry, the issues defined, the facts and data presented, and the conclusions reached by NAD/CARU and a NARB Panel, if one has been involved in the process.

4.1 Compliance

A. After an NAD, CARU or NARB panel decision requesting that advertising be "Modified or Discontinued" is published, together with an Advertiser's Statement indicating the advertiser's willingness to comply with NAD, CARU or the NARB panel's recommendations, NAD/CARU, either on its own or at the behest of a challenger or a

third party, may request that the advertiser report back on the status of the advertising at issue, and explain the steps it has taken to bring its advertising into compliance with the decision. Any evidence that NAD relies on as a basis for its request for a report on compliance, shall be forwarded to the advertiser together with the request for a status report.

B. If, after reviewing the advertiser's response to a request for a status report on compliance, pursuant to Section 4.1, or, if the advertiser fails to respond, after NAD/CARU independently reviews the current advertising, NAD/CARU determines that the advertiser, after a reasonable amount of time, has not made a bona fide attempt to bring its advertising into compliance with NAD, CARU or the NARB panel's recommendations and/or the representations with respect to compliance made in its Advertiser's Statement, NAD/CARU may refer the file to the appropriate government agency and release information regarding the referral to the press, the public, and to the media in which the advertising at issue has appeared, and shall report the referral in the next issue of the Case Reports. The amount of time considered reasonable will vary depending on the advertising medium involved.

C. If NAD/CARU determines that the advertiser has made a reasonable attempt to comply with an NAD, CARU or NARB panel decision, but remains concerned about the truthfulness and accuracy of the advertising, as modified, NAD/CARU will notify the advertiser, in writing, detailing these concerns. The advertiser will have ten business days after receipt of NAD/CARU's notice to respond, unless NAD/CARU expressly agrees to extend the advertiser's time to answer. Within 15 days of receipt of the advertiser's response, NAD/CARU will make a determination regarding the advertiser's compliance, and:

i. if NAD/CARU concludes that the advertising is in compliance with NAD, CARU or the NARB panel's decision, NAD/CARU will notify the advertiser and close the compliance inquiry;

ii. if NAD/CARU recommends that further modifications be made, to bring the advertisement into compliance with NAD, CARU or the NARB panel's original decision, NAD/CARU will notify the advertiser of its findings and any further recommendations for compliance.

a. If the advertiser accepts NAD/CARU's compliance findings, and agrees to discontinue the advertising at issue until it makes the further modifications recommended by NAD/CARU, NAD/CARU shall report this in the next issue of the Case Reports and shall continue to monitor for compliance.

b. If the advertiser indicates that it disagrees with NAD/CARU's compliance findings and refuses to make the further modifications recommended by NAD/CARU, the advertiser may, within five business days of receiving NAD/CARU's letter, submit a statement documenting its disagreement. Upon

receipt of such statement, or in the event an advertiser fails to respond within five days, NAD/CARU:

1. shall, where compliance with an NARB panel decision is at issue, refer the matter to the NARB Chair for review under Section 3.6 above; and

2. may, where compliance with an NAD/CARU decision is at issue, refer the matter to the appropriate government agency and report this action to the press, the public, and any medium in which the advertising at issue appeared; and shall report its findings in the next issue of NAD Case Report.

GENERAL PROVISIONS

5.1 Amendment of Standards

Any proposals to amend any advertising standards which may be adopted by NARB may be acted on by a majority vote of the entire membership of the NARB at any special or regular meeting, or by written ballot distributed through the United States mails, provided that the text of the proposed amendment shall have been given to the members 30 days in advance of the voting date. Once NARB voting is completed and tallied, the NARC President shall take it to the NARC Board of Directors for their approval.

5.2 Use of Consultive Panels for Matters Other Than Truth and Accuracy, or Consistency with CARU's Self-Regulatory Guidelines for Children's Advertising

From time to time, NARB may be asked to consider the content of advertising messages in controversy for reasons other than truth and accuracy, or consistency with CARU's Self-Regulatory Guidelines for Children's Advertising, or the NARC or the NARB may conclude that a question as to social issues relative to advertising should be studied. In such cases the following procedures shall be employed to deal with such issues :

5.3 Consultive Panels

The NARB Chair may consult regularly with the NARC President, the NARC Board of Directors or with the NARB to determine whether any complaints have been received, or any questions as to the social role and responsibility of advertising have been identified, which should be studied and possibly acted upon. If so, a consultive panel of five NARB members shall be appointed, in the same proportions as specified for adjudicatory panels in Section 3.4 above.

5.4 Panel Procedures

Consultive panels shall review all matters referred to them by the Chair and may consult other sources to develop data to assist in the evaluation of the broad questions under consideration. No formal inquiry should be directed at individual advertisers.

5.5 Confidentiality

All panel investigations, consultations and inquiries shall be conducted in complete confidence.

5.6 Position Paper

If a consultive panel concludes that a position paper should be prepared to summarize its findings and conclusions for presentation to the full NARB, the paper shall be written by one or more members of the panel, or by someone else under its direction. The contents of the paper should reflect the thinking of the entire panel, if possible, but any panel member may write a separate concurring or dissenting opinion, which will be published with the panel report, if it is published.

5.7 Voting on Publication

Any such report prepared by a consultive panel will be submitted to the NARB Chair, who will distribute copies to the full NARB for its consideration and possible action. The members of the NARB will be given three weeks from the date of such distribution within which to vote whether to publish the report or not. Their votes will be returned to the Executive Director of the NARB. If a majority of the NARB members vote for its publication the report will be distributed to NARC for its review and will be published only if a majority of NARC vote for its publication.

5.8 Publication

If a majority of the NARB and NARC vote for publication, the paper will be published promptly with appropriate publicity.

CONFIDENTIAL CARU SELF-ASSESSMENT FORM

This confidential self-assessment form is being provided to the CARU staff for the sole purpose of this request that the site(s) listed below be accepted into the Children's Online Privacy Protection Act (COPPA) Safe Harbor program. This document will not be shared or used with anyone outside the CARU staff for any other purpose without the written consent of the applicant.

Site name(s), URL(s) covered by this request:

Company Name: _____

Contact Person: _____

Contact phone and email _____

Please note: If you are seeking Safe Harbor status for multiple sites and information collection practices differ significantly at the sites, it is preferable to submit separate forms to facilitate the review.

1. Does your site have a privacy policy linked from its home page and at each area where you collect personal information from a child under 13? If yes, please attach a copy of your privacy policy for each site.

- Yes
- No

2. Does the privacy policy: (check all that apply)

Provide full name and online and offline contact information for the operator(s)

Explain:

- What personal information is collected
- How personal information is used
- With whom personal information is shared

Exhibit B

3. Does the site collect (please check all that apply):

- First name only
- screen name
- full name (first and last name)
- domain name
- e-mail address of child
- e-mail address of parent
- date of birth/age/grade in school
- full mailing address of parent or child
- phone number
- social security number
- city only
- city and state
- zip code
- credit card number
- name of school
- other. Please specify.

4. By what means is this information collected?

- Site registration
- Contests/sweepstakes
- Order forms
- Surveys/polls
- Newsletters
- Newsgroups, forums, chat rooms and/or bulletin boards
- Other (please describe) _____

5. If your site offers chat, bulletin boards, forums or newsgroups are they monitored or screened in any way?

- Yes
- No

If yes, please describe: _____

6. How is the personal information you collect used? Check all applicable boxes.

- Aggregated and discarded
- To personalize the visitor's web experience
- To fulfill the consumer's request (e.g., sign them up for a newsletter, enter them into a contest or sweepstakes, fill an order)
- To contact consumer
- Shared (with or without payment) with third parties.
- To notify parents at a separate e-mail address of a request from a child
- Other (please specify) _____

Exhibit B

7. Does the site place cookies?

- Yes
- No

8. For what purpose(s) are cookies used? Please check all applicable boxes:

- Keep track of shopping cart
- Keep track of login name/passwords
- Keep track of click stream data
- Personalize Web site
- Other (please specify) _____

9. If cookies are used, are they coupled with any personal information?

- Yes
- No

If yes, explain: _____

10. Does the site allow other companies, such as advertisers, to deliver cookies to users while on the Web site?

- Yes
- No

If yes, explain: _____

11. Do agreements with Web hosts, advertisers, and others establish limits on their rights to use personal information except to provide technical or fulfillment services to the site?

- Yes
- No

12. If you use (a) Web host(s), what is/are the name of the host(s)?

13. Are you supplied with a copy of the Web host's policies and procedures with respect to security?

- Yes
- No

14. If your activities at the site would never require you to obtain verifiable parental consent, please skip to question # 17. If your activities at the site(s) do require you to obtain verifiable parental consent, what methods are used? (Check all applicable boxes):

- Facsimile
- Mail
- Toll free phone registration
- Email
- Email plus credit card number
- Email plus _____

Exhibit B

- Other (specify)

15. Can parents request an opportunity to review personal information collected from a child and to make corrections to that information, or refuse to permit further use of that information (including transfers to third parties) by:

- Sending an e-mail to:
- Calling this 800 number:
- Writing to:
- Visiting the following URL:
- Other (specify):

16. How do you verify that the person asking to view any personal information of a child is, in fact, the child's parent? Check applicable boxes:

- Personal identification number (PIN)
- Credit card number
- Digital signature
- Social security number
- Other (please specify) _____

17. Does your site link to other sites?

- Yes
- No

18. If yes, do the sites indicate that they are compliant with CARU?

- Yes
- No

Please provide a few examples: _____

19. Does your site warn children not to provide personal information at areas where personal information is collected from children?

- Yes
- No

20. Does your site link to advertisements?

- Yes
- No

21. If yes, are they marked as ads?

- Yes
- No

Exhibit B

22. Are the ads suitable for children?

- Yes
- No

Provide a few examples.

23. If a user leaves the site to view an advertiser's site, are bumper screens used?

- Yes
- No

SECURITY

24. Is your server physically secure?

- Yes
- No

If yes, please explain: _____

25. Do you encrypt data during transmission?

- Yes
- No

If yes, what kind of information is encrypted?

- Transactional
- Other (describe): _____

26. How do you protect data obtained online and stored by you (check all that apply):

- Firewalls
- Encryption
- Password-protected access
- Limits on number, level of employees with access
- Physical security means
- Other

27. Do you (check all that apply):

- Designate an individual responsible for compliance with your privacy policy
- Disable employee access to data upon termination or, when appropriate, a change of responsibilities
- Investigate external or internal complaints about unauthorized access or use should you receive any
- Offer periodic education, training, reminders to appropriate employees
- Conduct internal or third party audits
- Review, update, change privacy policies when you materially change data collection activities

Exhibit B

28. Are Non-Disclosure Agreements or contractual obligations regarding personal information in place with contractors and third parties?

- Yes
- No

29. Is there any other pertinent information you would like to provide about the site(s) or your privacy policy?

ATTESTATION

In submitting this application on behalf of _____, I undertake that, if accepted into CARU's Safe Harbor program, the Website (s) identified in this application will:

Adhere fully to CARU's *Self-Regulatory Guidelines for Children's Advertising* and;

Participate fully in resolving any disputes through the *NAD/CARU/NARB Procedures*. In the event of a material breach, if internal due diligence and CARU's inquiry reveal no satisfactory explanation of how the breach occurred, the applicant will at CARU's request, and at its own expense, conduct a third-party security audit to resolve the matter;

Submit to CARU on the anniversary of the date of acceptance into the CARU Safe Harbor program a Self-Assessment Form based on current privacy practices on _____'s Website(s); and

In the event of any material change to the privacy practices on _____'s Website(s), submit to CARU for review a full description of such change.

Designated Safe Harbor Representative

Date:

Printed Name and Title: _____

The Children's Advertising Review Unit
Self-Regulatory Guidelines for Children's Advertising
(Revised February 2000)

The Children's Advertising Review Unit (CARU) of the Council of Better Business Bureaus was established in 1974 by the National Advertising Review Council (NARC) to promote responsible children's advertising and to respond to public concerns. The NARC is a strategic alliance of the advertising industry and the Council of Better Business Bureaus (CBBB). Its Board of Directors comprises key executives from the CBBB, the American Association of Advertising Agencies (AAAA), the American Advertising Federation (AAF) and the Association of National Advertisers (ANA). The NARC Board sets policy for CARU's self-regulatory program, which is administered by the CBBB and is funded directly by members of the children's advertising industry.

CARU's Academic and Business Advisory Boards, composed of leading experts in education, communication and child development as well as prominent industry leaders, advise on general issues concerning children's advertising and assist in revisions of the Guidelines.

The basic activity of CARU is the review and evaluation of child-directed advertising in all media. When children's advertising is found to be misleading, inaccurate or inconsistent with the Guidelines, CARU seeks changes through the voluntary cooperation of advertisers.

CARU provides a general advisory service for advertisers and agencies and also is a source of informational material for children, parents and educators. CARU encourages advertisers to develop and promote the dissemination of educational messages to children consistent with the Children's Television Act of 1990. In addition, CARU maintains a clearinghouse for research on children's advertising and has published an annotated bibliography.

Principles

Six basic Principles underlie CARU's Guidelines for advertising directed to children under 12:

1. Advertisers should always take into account the level of knowledge, sophistication and maturity of the audience to which their message is primarily directed. Younger children have a limited capacity for evaluating the credibility of information they receive. They also may lack the ability to understand the nature of the information they provide. Advertisers, therefore, have a special responsibility to protect children from their own susceptibilities.

2. Realizing that children are imaginative and that make-believe play constitutes an important part of the growing up process, advertisers should exercise care not to exploit unfairly the imaginative quality of children. Unreasonable expectations of product quality or performance should not be stimulated either directly or indirectly by advertising.
3. Recognizing that advertising may play an important part in educating the child, advertisers should communicate information in a truthful and accurate manner and in language understandable to young children with full recognition that the child may learn practices from advertising which can affect his or her health and well-being.
4. Advertisers are urged to capitalize on the potential of advertising to influence behavior by developing advertising that, wherever possible, addresses itself to positive and beneficial social behavior, such as friendship, kindness, honesty, justice, generosity and respect for others.
5. Care should be taken to incorporate minority and other groups in advertisements in order to present positive and pro-social roles and role models wherever possible. Social stereotyping and appeals to prejudice should be avoided.
6. Although many influences 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.

These Principles embody the philosophy upon which CARU's mandate is based. The Principles, and not the Guidelines themselves, determine the scope of our review. The Guidelines effectively anticipate and address many of the areas requiring scrutiny in child-directed advertising, but they are illustrative rather than limiting. Where no specific Guideline addresses the issues of concern to CARU, it is these broader Principles that CARU applies in evaluating advertising directed to the uniquely impressionable and vulnerable child audience.

Interpretation of the Guidelines

Because children are in the process of developing their knowledge of the physical and social world they are more limited than adults in the experience and skills required to evaluate advertising and to make purchase decisions. For these reasons, certain presentations and techniques which may be appropriate for adult-directed advertising may mislead children if used in child-directed advertising.

The function of the Guidelines is to delineate those areas that need particular attention to help avoid deceptive advertising messages to children. The intent is to help advertisers deal sensitively and honestly with children and is not meant to deprive them, or children, of the benefits of innovative advertising approaches.

The Guidelines have been kept general in the belief that responsible advertising comes in many forms and that diversity should be encouraged. The goal in all cases should be to fulfill the spirit as well as the letter of the Guidelines and the Principles on which they are based.

Scope of the Guidelines

The Guidelines apply to advertising addressed to children under twelve years of age in all media, including print, broadcast and cable television, radio, video, point-of-sale and online advertising and packaging. CARU interprets this as including fundraising activities and sponsor identifications on non-commercial television and radio. One section applies to adult-directed advertising only when a potential child-safety concern exists (see Safety, below).

Product Presentations and Claims

Children look at, listen to and remember many different elements in advertising. Therefore, advertisers need to examine the total advertising message to be certain that the net communication will not mislead or misinform children.

1. Copy, sound and visual presentations should not mislead children about product or performance characteristics. Such characteristics may include, but are not limited to, size, speed, method of operation, color, sound, durability and nutritional benefits.
2. The advertising 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. Care should be taken not to exploit a child's imagination. Fantasy, including animation, is appropriate for younger as well as older children. However, it should not create unattainable performance expectations nor exploit the younger child's difficulty in distinguishing between the real and the fanciful.
4. The performance and use of a product should be demonstrated in a way that can be duplicated by the child for whom the product is intended.
5. Products should be shown used in safe ways, in safe environments and in safe situations.
6. What is included and excluded in the initial purchase should be clearly established.
7. The amount of product featured should be within reasonable levels for the situation depicted.

8. Representation of food products should be made so as to encourage sound use of the product with a view toward healthy development of the child and development of good nutritional practices. Advertisements representing mealtime should clearly and adequately depict the role of the product within the framework of a balanced diet. Snack foods should be clearly represented as such, and not as substitutes for meals.

9. In advertising videos, films and interactive software, advertisers should take care that only those which are age-appropriate are advertised to children. If an industry rating system is available, the rating label should be prominently displayed.

10. Portrayals of violence and presentations that could frighten or provoke anxiety in children should be avoided.

11. If objective claims are made in an advertisement directed to children, the advertiser should be able to supply adequate substantiation.

Sales Pressure

Children are not as prepared as adults to make judicious, independent purchase decisions. Therefore, advertisers should avoid using extreme sales pressure in advertising presentations to children.

1. Children should not be urged to ask parents or others to buy products. Advertisements 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. Advertising directed toward children should not create a sense of urgency or exclusivity, for example, by using words like "now" and "only".

2. Benefits attributed to the product or service should be inherent in its use. Advertisements should not convey the impression that possession of a product will result in more acceptance of a child by his or her peers. Conversely, it should not be implied that lack of a product will cause a child to be less accepted by his or her peers. Advertisements should not imply that purchase and use of a product will confer upon the user the prestige, skills or other special qualities of characters appearing in advertising.

3. All price representations should be clearly and concisely set forth. Price minimizations such as "only" or "just" should not be used.

Disclosures and Disclaimers

Children have a more limited vocabulary and less developed language skills than adolescents and adults. They read less well, if at all, and rely more on information presented pictorially than verbally. Simplified wording, such as "You have to put it together" instead of "Assembly required," significantly increases comprehension.

1. All information that requires disclosure for legal or other reasons should be in language understandable by the child audience. Disclaimers and disclosures should be clearly worded, legible and prominent. When technology permits, both audio and video disclosures are encouraged, as is the use of demonstrative disclosures.
2. Advertising for unassembled products should clearly indicate that they need to be put together to be used properly.
3. If any item essential to use of the product is not included, such as batteries, this fact should be disclosed clearly.
4. Information about products purchased separately, such as accessories or individual items in a collection, should be disclosed clearly to the child audience.
5. 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.
 - a. In print or online advertising, this disclosure must be clearly and prominently displayed.
 - b. In radio advertising, the audio disclosure must be clearly audible.
6. If an advertiser creates or sponsors an area in cyberspace, either through an online service or a Website, the name of the sponsoring company and/or brand should be prominently featured, (including, but not limited to wording such as "The ... Playground", or "Sponsored by ...").
7. 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, and the advertising itself should be separated from the program and clearly designated as advertising.

Comparative Claims

Advertising which compares the advertised product to another product may be difficult for young children to understand and evaluate. Comparative claims should be based on real product advantages that are understandable to the child audience.

1. Comparative advertising should provide factual information. Comparisons should not falsely represent other products or previous versions of the same product.
2. Comparative claims should be presented in ways that children understand clearly.
3. Comparative claims should be supported by appropriate and adequate substantiation.

Endorsement and Promotion by Program or Editorial Characters

Studies have shown that the mere appearance of a character with a product can significantly alter a child's perception of the product. Advertising presentations by program/editorial characters may hamper a young child's ability to distinguish between program/editorial content and advertising.

1. All personal endorsements should reflect the actual experiences and beliefs of the endorser. Celebrities and real-life authority figures may be used as product endorsers, presenters, or testifiers. However, extra care should be taken to avoid creating any false impression that the use of the product enhanced the celebrity's performance.
2. An endorser represented, either directly or indirectly, as an expert must possess qualifications appropriate to the particular expertise depicted in the endorsement.
3. Program personalities, live or animated, should not be used to sell products, premiums or services in or adjacent to programs primarily directed to children in which the same personality or character appears.
4. Products derived from or associated with program content primarily directed to children should not be advertised during or adjacent to that program.
5. In print media primarily designed for children, a character or personality associated with the editorial content of a publication should not be used to sell products, premiums or services in the same publication.
6. For print and interactive electronic media in which a product-, service-, or product/service-personality is featured in the editorial content (e.g., character-driven magazines or Websites, product-driven magazines or Websites, and club newsletters) guideline 4 does not specifically apply. In these instances advertising content should nonetheless be clearly identified as such.

Premiums, Promotions and Sweepstakes

The use of premiums, promotions and sweepstakes in advertising has the potential to enhance the appeal of a product to a child. Therefore, special attention should be paid to the advertising of these marketing techniques to guard against exploiting children's immaturity.

Premiums

1. Children have difficulty distinguishing product from premium. If product advertising contains a premium message, care should be taken that the child's attention is focused primarily on the product. The premium message should be clearly secondary.

2. Conditions of a premium offer should be stated simply and clearly. "Mandatory" statements and disclosures should be stated in terms that can be understood by the child audience.

Kids' Clubs

In advertising to children, care should be taken not to mislead them into thinking they are joining a club when they are merely making a purchase or receiving a premium. Before an advertiser uses the word "club", certain minimum requirements should be met. These are:

1. Interactivity - The child should perform some act constituting an intentional joining of 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, for example, in the form of newsletter or activities, at regular intervals.
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.

Please see the Data Collection section of the Guidelines for Interactive Electronic Media for special considerations when fulfilling these requirements in the interactive media.

Sweepstakes and Contests

In advertising sweepstakes to children, care should be taken not to produce unrealistic expectations of the chances of winning, or inflated expectations of the prize(s) to be won. Therefore:

1. The prize(s) should be clearly depicted.
2. The "odds" for winning should be clearly disclosed in language clearly understandable to the child audience, for instance, "Many will enter, a few will win." In appropriate media, disclosures must be included in the audio portion.
3. All prizes should be appropriate to the child audience.
4. Alternate means of entry should be disclosed.
5. Online contests should not require the child to provide more information than is necessary and should be limited where possible to information including the child's and parent's email addresses. Per the Data Collection section of the Guidelines, parents should be contacted and receive direct notification when a child enters a contest to provide offline contact information to fulfill the contest (e.g. verify winner eligibility and send prize).

Safety

Imitation, exploration and experimentation are important activities to children. They are attracted to commercials in general and may imitate product demonstrations and other actions without regard to risk. Many childhood accidents and injuries occur in the home, often involving abuse or misuse of common household products.

1. Products inappropriate for use by children should not be advertised directly to children. This is especially true for products labeled, "Keep out of the reach of children." Additionally, such products should not be promoted directly to children by premiums or other means. Medications, drugs and supplemental vitamins should not be advertised to children.
2. 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. Such inappropriate products or promotions include displaying or knowingly linking to the URL of a Website not in compliance with CARU's Guidelines.
3. Adults should be shown supervising children when products or activities could involve a safety risk.
4. Advertisements should not portray adults or children in unsafe situations, or in acts harmful to themselves or others. For example, when athletic activities (such as bicycle riding or skateboarding) are shown, proper precautions and safety equipment should be depicted.
5. Advertisements should avoid demonstrations that encourage dangerous or inappropriate use or misuse of the product. This is particularly important when the demonstration can be easily reproduced by children and features products accessible to them.

Guidelines for Interactive Electronic Media (e.g. Internet and Online Services)

The guidelines contained in this section highlight issues unique to Internet and online advertising to children under 13. They are to be read within the broader context of the overall Guidelines, which apply to advertising in all media. For these purposes, the term "advertisers" also refers to any person who operates a commercial Website located on the Internet or an online service. Although CARU's Self-Regulatory Guidelines for Children's Advertising address advertising directed to children under 12 years of age, in order to harmonize with the Federal Trade Commission's ("FTC") final rule implementing the Children's Online Privacy Protection Act of 1998 ("the Rule"), the guidelines contained in the section on Data Collection below apply to Websites directed to children under 13 years of age.

Just as these new media are rapidly evolving, so in all likelihood will this section of the Guidelines. Advances in technology, increased understanding of children's use of the medium, and the means by which these current guidelines are implemented will all contribute to the evolution of the "Interactive Electronic Media" section. CARU's aim is that the Guidelines will always support "notice", "choice" and "consent" as defined by the FTC, and reflect the latest developments in technology and its application to children's advertising.

Further, these children's Guidelines must be overlaid on the broader, and still developing industry standards, government statutory provisions and definitions for protecting and respecting privacy preferences. These industry standards include disclosure of what information is being collected and its intended uses, and the opportunity for the consumer to withhold consent for its collection for marketing purposes. Thus, in the case of Websites directed to children that collect personal information from children, reasonable efforts, taking into consideration available technology, should be made to establish that notice is offered to, and choice exercised by a parent or guardian.

The availability of hyperlinks between sites can allow a child to move seamlessly from one to another. However there is no way to predict where the use of successive links on successive pages will lead. Therefore, advertisers who maintain sites for children should not knowingly link their sites to pages of other sites that do not comply with CARU's Guidelines.

In keeping with CARU's Principle regarding respecting and fostering the parents' role in providing guidance for their children, advertisers who communicate with children through email should remind and encourage parents to check and monitor their children's use of email and other online activities regularly.

To respect the privacy of parents, information collected and used for the sole purpose of obtaining verifiable parental consent or providing notice should not be maintained in retrievable form by the site if parental consent is not obtained after a reasonable time.

The following guidelines apply to online activities which are intentionally targeted to children under 13, or where the Website knows the visitor is a child. In child-directed sites or general interest sites with areas designed for children, age screening methods should determine whether verifiable parental consent or notice and opt-out is necessitated per the Data Collection section of the Guidelines. Care should be taken so that screening questions do not encourage children to provide inaccurate information to avoid obtaining parental permission. For purposes of this section, these activities include making a sale or collecting data, and do not include the use of "spokescharacters" or branded environments for informational or entertainment purposes, which are addressed in the "Endorsement" and "Disclosure" sections of the Guidelines.

Making a Sale

Advertisers who transact sales with children online should make reasonable efforts in light of all available technologies to provide the person responsible for the costs of the transaction with the means to exercise control over the transaction. If there is no reasonable means provided to avoid unauthorized purchases of goods and services by children, the advertiser should enable the person responsible to cancel the order and receive full credit without incurring any charges. Advertisers should keep in mind that under existing state laws, parents may not be obligated to fulfill sales contracts entered into by their young children.

1. Children should always be told when they are being targeted for a sale.
2. If a site offers the opportunity to order or 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. In the case of an online means of ordering, there should be a clear mechanism after the order is placed allowing the child or parent to cancel the order.

Data Collection

The ability to gather information, for marketing purposes, to tailor a site to a specific interest, etc., is part of the appeal of the interactive media to both the advertiser and the user. Young children however, may not understand the nature of the information being sought, nor its intended uses. The solicitation of personally identifiable information from children (e.g., full names, addresses, email addresses, phone numbers) triggers special privacy and security concerns.

Therefore, in collecting information from children under 13 years of age, advertisers should adhere to the following principles:

1. In all cases, the information collection or tracking practices and information uses must be clearly disclosed, along with the means of correcting or removing the information. The disclosure notice should be prominent and readily accessible before any information is collected. For instance, in the case of passive tracking, the notice should be on the page where the child enters the site. A heading such as "Privacy", "Our Privacy Policy", "Note to Parents", or similar designation which allows an adult to click on to obtain additional information on the site's information collection and tracking practices and information uses is acceptable.

2. When personal information (such as email addresses or screen names associated with other personal information) will be publicly posted so as to enable others to communicate directly with the child online, or when the child will be able otherwise to communicate directly with others, the company must obtain prior verifiable parental consent.

3. When personal information will be shared or distributed to third parties, except for parties that are agents or affiliates of the company or provide support for the internal operation of the Website and that agree not to disclose or use the information for any other purpose, the company must obtain prior verifiable parental consent.

4. When personal information is obtained for a company's internal use, and there is no disclosure, parental consent may be obtained through the use of email coupled with some additional steps to provide assurance that the person providing the consent is the parent. [The acceptability of this method for acquiring verifiable parental consent will sunset pursuant to the Rule and is intended to provide industry the opportunity to develop seamless digital methods of securing verifiable parental consent through technological innovation.]

5. When online contact information is collected and retained to respond directly more than once to a child's specific request (such as an email newsletter or contest) and will not be used for any other purpose, the company must directly notify the parent of the nature and intended uses and permit access to the information sufficient to permit a parent to remove or correct the information.

In furtherance of the above principles, advertisers should adhere to the following guidelines:

1. Before asking children for personal information about themselves or others, advertisers should remind children to ask a parent for permission to answer the information gathering questions (e.g., "You must ask your Mom or Dad if you can answer these questions").

2. The advertiser should disclose, in language easily understood by a child, 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 whether the information is intended to be shared, sold or distributed outside of the collecting advertiser company.

3. If information is collected from children through passive means (e.g., navigational tracking tools, browser files, etc.) this should be disclosed to the child and the parent along with what information is being collected.

4. Advertisers should encourage the child to use an alias (e.g., "Bookworm", "Skater", etc.), first name, nickname, initials, or other alternative to full names or screen names which correspond with an email address for any activities which will involve public posting.

5. If the information is optional, and not required to engage in an activity, that fact should be clearly disclosed in language easily understood by a child (e.g., "You don't have to answer to play the game"). The advertiser should clearly disclose what use it will make of this information, if provided, as in #2 above, and 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.).

6. The interactivity of the medium offers the opportunity to communicate with children through electronic mail. While this is part of the appeal of the medium, it creates the potential for a child to receive unmanageable amounts of unsolicited email. 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 to discontinue receiving mailings.

Guidelines for the Advertising of 900/976 Telegrams to Children

These guidelines, promulgated in 1989, have been superseded by a prohibition by the Federal Trade Commission that pay-per-call services cannot be directed to children under 12, unless the service is a "bona fide educational service." Likewise, ads for 900-number services cannot be directed to children under 12, unless the service is a bona fide educational service per section 308.3 (d)(I) of the Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992.. This portion of CARU's guidelines may be found as a reference on CARU's Website at <<http://www.caru.org>>

The Children's Advertising Guidelines have been in existence since 1972 when they were published by the Association of National Advertisers, Inc. to encourage truthful and accurate advertising sensitive to the special nature of children. Subsequently, the advertising community established CARU to serve as an independent manager of the industry's self-regulatory program. CARU edited and republished the Self-Regulatory Guidelines for Children's Advertising in 1975, and revised them in 1977, 1983, 1991 and 1995. In 1996 CARU edited its Guidelines to include a new section addressing the Internet. The latest revisions, in 1999, deal expressly with data collection and privacy on the Internet. The assistance of CARU's Academic and Business Advisory Committees, and of other children's advertisers, their agencies and trade associations has been invaluable.

Copyright 1991, 1996, 2000. Council of Better Business Bureaus, Inc. The name Better Business Bureaus is a registered service mark of the Council of Better Business Bureaus, Inc. Sixth Edition 2000.

CARU INITIAL WEBSITE REVIEW AND SEEDING FORM

Review Date: _____

Site name, URL(s): _____

Company Name: _____

Does the site have a privacy policy linked from the home page? (attach copy) If yes, is it clear and easy to understand?

Is the policy linked to all pages where information is collected?

Does the company provide its full name and contact information (offline as well as online)? (attach information as provided)

Is CARU mentioned in the privacy policy? Is there a link to our site?

**Does the site collect personally identifiable information? If yes, What type?
(name, e-mail, home address, phone, social security, city, zip code)**

Does the privacy policy specify how information collected will be used? List.

If the site shares information with third parties, does it explain who it will be shared with and the purposes? List.

Are parents told how they may choose not to have their child's information shared with third parties?

Does the site place cookies? If yes, are they coupled with any personally id. Info?

Do they ask for parental contact information? Specify type requested:

Please complete any site registration using a unique seeding mechanism

(email/name):

Child's name: _____

Child's age: _____

Child's e-mail: _____

Parent's e-mail: _____

Other information required and provided: (offline information)

**Did you receive a parental e-mail notification from the site about your registration?
(please attach)**

Did it include information about the type of information collected at the site?

Did it state whether the information would be shared with other parties?

Did it explain how parents can remove or modify the information?

Does the site need to obtain verifiable parental consent because it features bulletin boards, chats, or offline information collected for internal purposes? Specify the type of activity triggers the need for parental consent:

What methods to obtain vpc are used (e.g. facsimile, mail, toll free phone registration)? Please complete a registration using the methods provided and include all correspondence in the site file.

Does the site link to other sites? If yes, are the sites compliant? Please provide urls for sites that are linked to:

Does the site include bumper screens warning children not to provide personally identifiable information?

Does the site link to advertisements? If yes, are they marked as ads?

Are the ads suitable for children? Provide a few examples.

Are bumper screens used before the user leaves the site to view an advertiser's site?

General Concerns or comments about the site:

Initial Contact Date: _____

Contact Person: _____

