

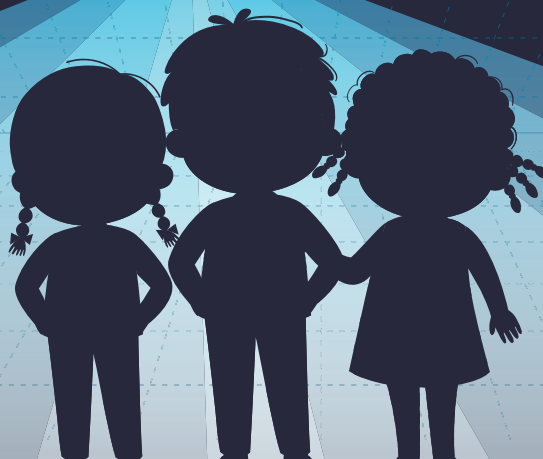


National
Programs

Children's Advertising
Review Unit*

Building Guardrails for Child-Directed Advertising & Privacy in the

META- VERSE



Building Guardrails for Child-Directed Advertising & Privacy in the Metaverse

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Executive Summary

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

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

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

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

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

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

This document is a result of this initiative, and is intended to be a set of realistic, actionable considerations and best practices. This document does not intend to resolve or respond to all the complex scenarios within the metaverse, as the space is nuanced and each situation is unique.

We encourage responsible brands - large and small - to take proactive steps to better understand the advertising and privacy challenges in the metaverse, and to embrace and adopt these best practices to ensure responsible and positive engagement with children.

[? Learn More](#)

Here to Help

CARU is at the forefront of recognizing complex issues in the children's space, and the metaverse is no exception.

- [CARU](#) has been monitoring the marketplace and helping companies comply with laws and guidelines that protect children under age 13 from deceptive or inappropriate advertising since 1974.
- From concept to final cut, CARU provides pre-screen services to help businesses and agencies spot and correct advertising and privacy issues before ads, contests, and promotional websites go live.
- Identifying the intersection of advertising and privacy, CARU's 1996 [Children's Online Privacy Guidelines](#) became the foundation for what we now know as COPPA.
- In 2001, CARU became the first FTC-approved [COPPA Safe Harbor Program](#).

Guiding Considerations

Any company or brand looking to engage with an audience in the metaverse should ensure it has a thorough understanding of the advertising and privacy regulatory landscape.

Advertising

Advertisers have special responsibilities to children.

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

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

- + What is an advertisement in the metaverse?
- + When should disclosures be used?
- + What disclosures are required?
- + What constitutes an effective disclosure?

Federal Trade Commission (FTC) laws, regulations, and guidance about truthful and transparent advertising apply in the metaverse. Section 5 of the FTC Act generally prohibits unfair or deceptive acts in or affecting commerce and CARU's Advertising Guidelines build upon that guidance by enumerating special responsibilities advertisers have regarding children. This includes guidance in areas such as clear and conspicuous disclosures, endorsers and influencers, blurring of advertising and non-advertising content, and in-app and in-game advertising and purchases.

Be transparent.

All advertising should be easily recognizable as advertising.

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

Best Practices

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

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

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

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

Understand when content becomes advertising.

Content would likely be considered advertising within the metaverse if:

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

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

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

Advertising is NOT...

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

Ensure your advertising is safe and appropriate for children.

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

Disclosures

In the metaverse, augmented reality and virtual reality worlds, the potential to mislead children through advertising practices is escalated.

Advertising must be disclosed unless it is so clearly commercial in nature that it is likely to be recognizable as advertising.

Additionally, disclosing official brand experiences demonstrates care and can also indicate to children and their caretakers that the source of the creative is a trusted brand versus unofficial or unauthorized user-generated content.

Is a disclosure required?

✓ Yes

Advergames

Disclosures are required when a game or experience is **created specifically to advertise products**.

To determine whether disclosures should be constant throughout the duration of gameplay or appear periodically (with sufficient frequency), consider the nature of gameplay and where a disclosure would be most effective.

✗ No

Brand Preferences

If an individual user chooses to mention, use, review, or favor a brand **without any payment or consideration from the brand**, then no disclosure is required.

✎ It Depends

Licensed Characters & IPs

✓ **Yes:** If the licensed character or IP is in a third-party world and either there is a call to action or the purpose of featuring the IP in the experience is to a) increase traffic to a web service or app, b) induce a purchase, or c) promote a product, then a disclosure is required.

✗ **No:** If the licensed character or IP is in that brand's own world, then no disclosure is required.

✗ **No:** If the licensed character or IP is in a third-party world and the purpose of featuring the IP in the experience is solely entertainment or educational, then no disclosure is required.

If the licensed character or IP is in a third-party world, please consider the answers to these questions:

- + Has there been payment to appear in the third-party world?
- + How is the IP interacting with the player?

It Depends

No Call-to-Action or Purchase Flow

If branded products (not available for purchase online or offline) are present within the experience, but there is no call to action directing users to purchase and there are no functionalities to allow a user to add the product to their cart for purchase, consider whether it is the mere appearance of a brand (i.e. not necessarily advertising) or an endorsement (which is advertising).

- ✔ **Yes:** If the purpose of the experience is to promote a brand or service, then a disclosure is required.
- ✔ **Yes:** If the purpose is to drive traffic to its online website or app, then a disclosure is required.
- ✘ **No:** If the experience is purely entertainment with no promotion of a product/brand, then no disclosure is required.

It Depends

Non-Playable Characters (NPCs)

Disclosures for NPCs largely depend on a platform's functionality (i.e. chat box, script "Hi, I'm an Ad", slug, etc.).

- ✔ **Yes:** If a company-owned/operated NPC is intended to be an advertisement in a third-party experience, it requires a disclosure at the initial point of interaction with a player.
- ✘ **No:** If an NPC is a character clearly part of the associated world, then no disclosure is required.

It Depends

Retail Experiences

- ✔ **Yes:** If products are shown that are available for purchase in its physical store(s) or online, then a disclosure is required.
- ✔ **Yes:** If the product is not for sale offline, and the purpose of the online experience is to either a) promote a product, b) induce a purchase either within the experience or offline, or c) drive traffic to its online website or app, then a disclosure is required.
- ✘ **No:** If the product is not for sale and the purpose of the online experience is purely entertainment or educational, no disclosure is required.

✓ Yes

Social Media

Disclosures are required when social posts, videos, or other content is produced in connection with a brand partnership agreement promoting the brand's specific products or services for which the user receives compensation, free product, or has another material connection to the brand.

⚡ It Depends

Virtual Merchandise

Some games and experiences offer branded clothing, accessories, and other items.

- ✓ **Yes:** If the item is available for sale, virtually or offline, a disclosure is required.
- ✗ **No:** If players can earn or obtain the item within the experience (non-monetary) it would not likely require a disclosure.
- ✗ **No:** If a branded item obtained within an experience goes outside of an experience, it is not likely that a disclosure is required if it is solely the brand name (no product or event information is included).

⚡ It Depends

Endorsers and Influencers

The metaverse has opened a new frontier for influencer marketing where, in addition to humans, sponsored avatar influencers as well as AI-generated influencers can interact directly with children to promote brands, branded games, and other products. Paid influencers can also promote products and games across multiple platforms, creating further potential for confusion as to when influencers are advertising or simply expressing their own preferences.

The [FTC Endorsement Guides](#) provide that advertisers should ensure that their endorsers clearly and conspicuously disclose that they have a material connection to the advertiser (i.e., a connection that is not expected by children).

When it comes to disclosures, there are several things that influencers/endorsers and advertisers must take into consideration. Such considerations will help inform the decision-making process regarding who should disclose, what should be disclosed, as well as when, where, and how often disclosures should appear. Please note that hashtags and brand tags can be an endorsement.

General Best Practices

- ✓ If a purchase of virtual goods costs real money (including real money required to buy in-game currency), **make it clear that the purchase costs real money.**
- ✓ **Do not use manipulative tactics**, including design techniques, or emotional or social pressure to force or encourage children to view or engage with an ad or make unintended purchases.
- ✓ **Do not blur** your advertising and non-advertising content.
- ✓ **Be truthful, transparent**, and not misleading or deceptive.
- ✓ **When in doubt, disclose!**
- ✓ **Disclosures should be provided in writing and orally.**

FTC Disclosure Principles

? Learn More
[Protecting Kids from Stealth Advertising in Digital Media \(ftc.gov\)](https://www.ftc.gov/protecting-kids-from-stealth-advertising-in-digital-media)

- ✓ There must be a disclosure **before the experience or at the point of initial interaction** with an advertisement.
- ✓ Include the disclosure **early and with prominence**; repeat in longer media.
- ✓ When advertising is embedded in content, **disclosures should explain the sponsor's persuasive intent** in simple language that a child will understand.
- ✓ Render the disclosure long enough to be **read/heard completely by a child.**

How and When to Disclose

What would be considered
“clear” to a child?

✓ Yes

Simplicity

Use easy-to-understand language (e.g. “Ad” or “This is an Ad”).

✓ Yes

Visuals

Prominently placed visuals can be impactful as children are likely engaged and watching already.

✓ Yes

Audio

Audio disclosures are necessary for pre-literate and differently abled audiences, and make a disclosure more noticeable. Using both audio and visual disclosures is a best practice.

How often (frequency)
& where (placement)
to disclose?

✓ Yes

Be Persistent & Obvious

- + Make sure the disclosure is unavoidable.
- + Disclosures should be easily noticeable and appear in appropriate locations.
- + Disclosures must also be made with sufficient frequency so that children are likely to see, hear, and understand them.

✓ Yes

Easily Legible and Visible Fonts & Colors

The FTC and CARU do not prescribe a certain font size or color but make clear that the disclosure must be easily readable and noticeable in the type of media used. For example, disclosures must be easy to notice and read on mobile as well as other smaller devices.

✓ Yes

Layer Disclosures

Have the disclosure placed in the description of the experience (before you enter), on billboards when you first enter the experience, and throughout the experience.

🗑 It Depends

Is More Better? Not Necessarily

- + Always-on disclosures may interfere with gameplay.
- + Periodic, appropriately placed disclosures is a best practice.
- + Use conspicuous design techniques, like text size and color, positioning, and other visual or contextual cues, such as the borders around or background shadings of ads, to identify ads in the experience and when content within an experience is a paid ad.

Consider the Experience

What kind of disclosures (and when) are most effective in that particular experience for children to see, hear, and understand?

Some of your options include: both audio and text, persistent (always-on) disclosures, billboard disclosures, watermarks, and dialogue disclosures. Use clear and conspicuous simple language that is easy for children to see, hear, and understand in the particular medium/experience. Platforms should provide tools that enable content creators to be transparent and easily disclose advertising content.

Privacy

Get to know COPPA.

The Children's Online Privacy Protection Act (COPPA) is a U.S. privacy law that governs the online collection and use of data for children under 13. COPPA gives the FTC and the state attorneys general the power to enforce the law. COPPA applies to websites, online games, and metaverse platforms that are directed to children or have actual knowledge they are collecting personal information from children under 13.

The COPPA Rule sets out several factors for determining whether a website or online service is directed to children. If an online site or service is directed to children but does not target children as its primary audience (e.g., the site also targets adults or older teens), it may be considered "mixed-audience." "Mixed audience" is a subset of "directed to children."

If a website or online service is directed to children, including those in the metaverse, it must treat all visitors as children and provide COPPA's protections.

One of those protections is that a website or online service directed to children may not screen users for age. However, for a "mixed audience" website, online service, or metaverse platform where children are not the primary target audience but are a target audience, the platform can choose to implement an age screen and offer different experiences and protections for those under 13 and those over 13.

For users who indicate they are under 13, the platform must ensure that it does not collect personal information from those users, or it must obtain verifiable parental consent prior to such collection. A user navigating away

[? Learn More](#)

COPPA Resources

Children's Online Privacy Protection Rule

[eCFR :: 16 CFR Part 312](#)

[A Six-Step Compliance Plan for Your Business
Federal Trade Commission \(ftc.gov\)](#)

from a COPPA-protected area should always receive appropriate protections, such as not being directed to a non-child-directed, or non-COPPA-protected site.

In determining whether a site or metaverse platform is child-directed, the FTC considers the following factors:

- + Subject matter
- + Visual content
- + Use of animated characters
- + Child-oriented activities and incentives
- + Music or other audio content
- + Age of models
- + Presence of child celebrities or celebrities who appeal to children
- + Language or other characteristics of the website or online service
- + Whether advertising promoting or appearing on the website or online service is directed to children
- + Competent and reliable empirical evidence regarding audience composition
- + Evidence regarding the intended audience

Protect children's privacy.

In addition to the requirements set forth in COPPA, companies must adhere to CARU's Privacy Guidelines. CARU's Privacy Guidelines use the COPPA definition of personal information to assist companies and brands in developing their metaverse presence while respecting children's privacy.

- + In collecting personal information from children under 13, brands must obtain verifiable parental consent and prominently disclose their data collection practices, information uses, and the means for correcting information.
- + Brands should disclose how and why the information is collected and how it is handled in addition to getting "verifiable parental consent" before collecting the information.
- + Parents have a right to revoke consent to the use of their child's data and have their data deleted.
- + Companies should continuously assess their data retention policies and the type of data they collect. Do they require biometrics, location, sensor data, and/or avatar movements? If the data is not required, it should not be collected.

Online sites and services offer unique opportunities to interact with children and collect data. Young children, however, may not understand the nature of the information sought or its intended use. Nor may they

realize that their personal information is often kept in perpetuity and nothing is ever "erased" from online sites or services. Moreover, the nature of the metaverse makes it easy to illegally collect such data without parental consent or supervision. It also makes it easy to influence children to share more data than they intend, and easy for brands to get it wrong.

But it is imperative for brands to get this one right to create safe online spaces for children.

Brands in the metaverse should prioritize privacy-by-design principles to increase customer confidence and stay current with privacy laws and regulations. Privacy-by-design principles focus on creating algorithms and data flows that default to data minimization, privacy protection, and user control.

Best Privacy Practices for U13 experiences

- ✔ Consider disabling chat features or use canned chat dialogue for U13 users.
- ✔ Ensure there are automated safeguards that prevent sharing personal information.
- ✔ Allow U13 users to choose words from various columns to create a username. For example: Column 1 – Adjective, Column 2 – Color, Column 3 – Animal (Hungry Purple Goldfish).
- ✔ Ensure U13 users are not able to access parental controls. Consider time limits in parental controls.
- ✔ Consider allowing parents to create a password to restrict purchases for U13 users.
- ✔ Make settings for parental controls easily accessible and explainable to parents.
- ✔ Default settings should be preset to the experience's most restrictive settings.
- ✔ If you are a global company, consider implementing the strictest standard/law and apply it across the board, layering on other regulations for company-specific brands.
- ✔ Metaverse design should make it easy for children to use the blocking and reporting functions.

Regarding Platforms

It is imperative that platforms create and maintain a compliant atmosphere so that content creators can be wholly compliant. Brands and companies must ensure that the privacy practices of each chosen platform are COPPA compliant. Even if your company or brand does due diligence and complies with COPPA, if the platform does not, it is likely that your presence on that platform will be seen as non-compliant.

Be aware of relevant regulations.

As legislation continues to evolve, stay abreast of all state, federal, and international laws in connection with the metaverse.

Other Risks

In addition to advertising and privacy considerations, brands engaging in the metaverse should also consider potential emotional and physical harms to children, such as cyberbullying, sexual exploitation and harassment, exposure to violence and self-harm, misinformation, political or religious extremism, and physical strain (cybersickness).

It is no secret that teens are voracious users of technology and as such are susceptible to such risks. Leveraging its 50 years of experience in the children's space, BBB National Programs convened business leaders to develop the TAPP Roadmap, an operational framework

designed to help companies develop digital products and services that consider and respond to the heightened potential of risks and harms to teenage consumers and to ensure that businesses collect and manage teen data responsibly. An organization of any size can use this framework as a roadmap of considerations to help address the privacy, autonomy, and safety of teens.

Email us at programs@bbbnp.org to tell us what you think.

Definitions & Key Terms

“Advertisement,” “Advertising,” or “Ad” means any commercial message or messaging primarily directed to children under age 13 (whether written, oral, or non-verbal) in Covered Media that promotes the sale of one or more products or services.

“Advertiser” means any person or other legal entity, including an Endorser, that engages in National Advertising.

“Child” or “Children” means a person or persons residing in the United States of America who are under 13 years of age.

“Clear” means easily understandable by ordinary Children.

“Conspicuous” means presented in a manner that is easily noticeable, i.e., difficult to miss, by ordinary Children.

“Covered Media” means all forms of media including, without limitation, all forms of print, television, radio, video, audio, internet, mobile, other digital media, influencer content, out-of-home, signage, sponsorships, event-based media, labeling, and the Advertiser’s websites, social media channels, and apps.

“Endorsement” means any Advertising message (including verbal statements, demonstrations, or depictions of the name, signature, likeness, or other identifying personal characteristics of any individual or the name or seal of an organization) that Children are likely to believe reflects the opinions, beliefs, findings, or experience of a party other than the sponsoring Advertiser. The party whose opinions, beliefs, findings, or experience the message appears to reflect will be called the Endorser and may be an individual, group, or institution.

“Material connection” is a connection that is not expected by ordinary Children and includes a personal, family, employment relationship or financial relationship – such as the brand paying or giving free or discounted products or services.

