

Toys And The Truth

Five rules for worry-free children's advertising

By Wayne J. Keeley

The Children's Advertising Review Unit of the Council of Better Business Bureaus was created in 1974 to ensure that advertising directed to children under the age of 12 was both truthful and appropriate. Decades later, CARU's mission remains the same, but the business of marketing products to children has changed dramatically since CARU was first chartered.

Today, simple toys and games are sold alongside a host of products that didn't exist in 1974—complex consumer electronics, playthings that offer interactive components and products that are purchased via membership websites, to name but a few. But despite the increasing complexity of the toys now available, and the myriad new ways and locations to advertise their availability in today's world, CARU's founding principles remain the same: advertising directed to children under 12 must meet high standards of truthfulness, accuracy, fairness and appropriateness.

Given that environment, what exactly does that mean for toy makers and others who advertise to children?

It means that companies advertising toy products should, as they plan and develop advertising cam-

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appropriate for young children. (*Unsafe and Inappropriate advertising to children. D 2 (i).*)

Pre-screening for problems

In 2005 CARU began expanding its pre-screening capability, a service to CARU supporters. In 2007, CARU pre-screened more than 300 advertisements directed to children under the age of 12, triple the number of prescreening requests handled in 2005.

The pre-screening process allows CARU to assist advertisers in identifying any potential problems with

guidelines require depiction of adult supervision in advertising for certain products like trampolines, and the use of recommended safety equipment in others—like wearing bicycle helmets when riding a bike. (*Unsafe and Inappropriate advertising to children, D 2 (i).*)

5. Products and content should not be in-

appropriate for young children. (*Unsafe and Inappropriate advertising to children. D 2 (i).*)

Supporting self-regulation

Advertising industry self-regulation allows companies the opportunity to resolve concerns without the intervention of government regulation. In addition, self-regulation is far less costly than litigation. But the primary value of industry self-regulation is that it draws upon the collective expertise of the industry to develop solutions to common problems. CARU actively seeks dialogue with the children's advertising industry and welcomes new voices to the discussion.

Advertising self-regulation is made possible by financial support from the advertising industry. For more information about CARU, visit CARU.org.

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Advertising guidelines

In addressing advertising for toys, CARU's guidelines, available online, specifically recommend that:

1. Toy commercials should not create unreasonable performance expectations for children. Toys shown in a commercial should look and act as they would if children were playing with them. (*Product Presentations and Claims, Section D 2 (b) 1.*)

2. Generated Imagery (CGI) and animation are features of many contemporary commercials. CARU recommends advertisers take care not to “blur” the lines between reality and fantasy to assure that children viewing the advertising understand where the animation ends and real product performance begins. (*Product Presentations and Claims, D 2 (b) 3.*)

3. Toy commercials should have clear and promi-

THE LEGAL DEPARTMENT

Spam, Lego And Yo-Yos

Spam. What exactly is it? For one thing, it's a famous trademark. More specifically, it's Hormel's name for a luncheon meat that contains pork shoulder, spices and ham. As the saying goes, anything more would be “too much information.” But there is more worth knowing—about Spam and about trademarks—and that's the subject of this month's column.

Trademarks are odd things. Their principal reason for existence is name recognition. Companies spend billions promoting their trademarks, all with the goal of having consumers readily identify their trademarks. Yet a trademark can become so well known that it takes on a life of its own, and in so doing can lead to its own demise.

Take the Lego trademark. The Lego Group has attempted to educate the public that kids don't play with “Legos,” they play with “Lego bricks.” That was the message that popped up for consumers for many years when they visited Legos.com instead of Lego.com. (Note the extra “s.”) The Lego Group was (and is) concerned that the Lego trademark may become “generic”—meaning that it no longer identifies a particular brand of bricks sold by Lego under the Lego trademark. That's because a term becomes generic when, instead of acting as a trademark for the products of a single company, it identifies a class of products.

Many everyday terms that are now generic were formerly trademarks for products sold by a single company: aspirin, escalator and trampoline, to name a few. In the toy industry, the most famous example—at least in the U.S.—is “yo-yo.” (Yo-Yo is still a trademark in Canada). Yo-Yo has been a common reference to all U.S. companies' returning top toys since at least 1965, when it was ruled a generic term, much to the dismay of the Duncan Toys Co., which brings us back to Hormel.

Believing that its Spam mark should extend beyond the grocery aisle, and beyond the limits to which it had expanded, Hormel recently sought to stop one company's use of the mark SPAM ARREST, for software designed to stop unsolicited email. Not surprisingly, Hormel lost, given the ubiquitous use of the term “spam” to refer to unwanted email. For at least the last 10 years, the U.S. Patent and Trademark Office has refused Hormel's application to cancel the SPAM ARREST mark.

So the lesson this month is too much notoriety for a product can be a bad thing—at least in the trademark world. Owning a strong trademark for a narrow class of goods is better than destroying your trademark by stretching it too far, or wasting your money seeing how far you can stretch it. Market your products aggressively. But don't be greedy and bite off more than you can chew.

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