

Protecting Kids from Stealth Advertising in Digital Media

STAFF PERSPECTIVE | SEPTEMBER 2023

Preface

by Samuel Levine
Director, Bureau of Consumer Protection

online, man0hbroader conte imeord where in 2023 (law this, ad te, te) 15 T fer as of associated wit2.
artificial intelligence, forming parasocial relationships that blur the les between friends and
strangers, people and computers; th

them to keep up with the ever-changing technology and digital landscape. In fact, many parents are unfamiliar with the apps their children use and how they use them.

In the FTC's recent COPPA cases, including U
N.C. Feb. 7, 2023), we are doing what we can.

media, mobile gaming, and virtual environments.⁸ Studies show that children are consuming more digital content than ever before.⁹ As digital media consumption increases, kids also see more advertising and marketing messages. By one calculation, some t

a sweater she purchased and she has no ties to the seller or advertiser of the sweater, it is not an ad.²⁷

The underlying relationship between the advertiser and content creators, and the audience's expectation and understanding of that relationship, should dictate how these advertising messages are identified, keeping in mind that younger audiences may have different expectations than older ones, as discussed further below.

What does emerging research tell us about kids' abilities to recognize and evaluate blurred advertising?²⁸

Continuing questions about kids' ability to recognize blurred advertising should concern marketers who nevertheless engage in the practice. Younger children tend to lack the knowledge and skills that would allow them to recognize and evaluate ads ("ad literacy"). These skills include: recognizing brands and products; researching and thinking critically about products; determining rules to use when making decisions; developing bargaining and negotiation strategies; and understanding influence, intentions, and motives.²⁹

Physical Harms: Physical harms may occur when blurred ads market physically harmful products or services, such as tanning, tobacco, or unhealthy foods, and the persuasive and cultural effects of embedded advertising, as discussed above, may make such products more desirable.⁶⁸

Financial Harms: Blurred digital advertising may lead to accidental purchases, social or emotional purchases (e.g., a kid has to make a purchase to compete with another player or must buy food for their pet in a game), or purchases without parental approval (e.g., when a kid makes an in-app purchase using their parents' account or device).⁶⁹ Influencer marketing may spur impulsive purchases, with 25 percent of family and child purchases through influencers happening the same day they see the marketing message.⁷⁰

Privacy Harms: As discussed above, the use of kids' personal information and their interests to target ads to them complicates a kid's ability to recognize and evaluate an ad.⁷¹ Targeted advertising is pervasive in the digital world. Even with the verifiable parental consent requirement of the Children's Online Privacy Protection Act (COPPA), which may eliminate some targeted advertising to kids,⁷² children under 13 likely still receive targeted advertising. This can be due to non-compliance with COPPA or can occur when websites or online services are not specifically directed to children and lack actual knowledge that they are collecting data from them.

Disproportionate Effects on Certain Populations: Research indicates that certain populations may experience more significant impacts from blurred advertising, particularly when there is an increase in digital media usage, parents have fewer resources to contribute to their children's ad literacy, English is not the parents' native language, and/or the population is more likely to be targeted with potentially problematic ads.⁷³

Some participants and commenters suggested the identified concerns are overstated, speculative, or mitigated by various factors, such as parents acting as gatekeepers for household purchases, or older children developing the skills needed to help them identify and evaluate blurred advertising before making purchases.⁷⁴

Additional Policy Considerations

As noted throughout this report, blurred advertising that targets children poses significant risk of deception and other harms. It has long been the case that children are a lucrative audience for advertisers. Indeed, research shows that “spending to market children's products and services [in content and programming] . . . reached more than \$1.6 billion in 2022,” with 70 percent spent in digital spaces.⁷⁵ But marketers that engage in blurred advertising should be mindful that while it may be profitable, the practice can put children at risk of harm and violate Section 5 of the FTC Act. For that reason, the responsibility for ensuring lawful advertising that is free of deception rests first and foremost with advertisers themselves. This is especially necessary when an underlying commercial relationship may only be known to the advertiser and content creator.⁷⁶ Advertisers—unlike parents and children—design these commercial relationships, and carefully

monitor the effect of their advertising on different populations. They are therefore in the best

Staff Recommendations

Today’s digital environment creates many benefits for children, but it also comes with great risk. Legislators and policymakers at the federal and state levels, as well as abroad, have engaged in thoughtful discussions and introduced legislation to protect kids from the harms presented by the current digital world in which they live. These global policy discussions and the research that continues to emerge make one thing about blurred advertising especially clear. Such advertising presents inherent risk, and there is no silver bullet that will address the issue of blurred advertising across every digital space and for every kid. Ultimately, as detailed further below, the best way to prevent harm stemming from blurred advertising to kids—especially in light of evolving research—is for marketers not to engage in the practice.

Recognizing that such marketing may continue, however, FTC Staff has some recommendations that advertisers, content creators, platforms, and others can follow to reduce the likelihood of young consumers being deceived or otherwise harmed. The comprehensive approach recommends transparency, formatting, disclosures, icons, and other cues that help draw a clear line between content and advertising.

Implementing any one recommendation alone is not sufficient. To address the issue of blurred advertising to kids, marketers and others should consider the real-world effects of their marketing techniques and implement all the relevant FTC Staff recommendations set forth below in a manner that protects children. As marketer0 - Td(and oth1 Tc - 13.61 f8 (wgst Tc -0.004 7rmed.e.000f)]TJ0



self-identifying sponsored content. As described above, to further increase the success of such tools and controls, FTC Staff strongly encourages platforms to develop policies regarding the identification of blurred advertising, and to enforce those policies when they learn of violations.

Platforms also should consider giving parents the opportunity to turn off such content for their young kids, rather than requiring them to avoid certain platforms or block ads altogether. Although this may foreclose a significant portion of content for these children,¹⁰⁰ it would allow parents more control over whether their children are exposed to blurred advertising.

¹⁵ See, e.g., Kresses Presentation, at 0:27, 0:42; Snap, Inc., *Snap Augmented Reality*, <https://ar.snap.com/> (last visited Sept. 13, 2023).

¹⁶ See, e.g., AccessAR, *How To Run Your Brand's AR Filter Campaign*, <https://www.accessar.com/blog/how-to-run-your-brand-s-ar-filter-campaign/> (last visited Sept. 13, 2023).

⁶⁸ See Harris Remarks, at 2:55; Fairplay Comment, at 16; Rudd Center Comment, at 2 (“[A] systematic review of food and beverage marketing on social media and advergames found effects on children’s food choices, consumption, and requests (i.e., pester behaviors). Stealth marketing of unhealthy foods in the digital space amplifies the effect of traditional forms of marketing, such as TV advertising, on brand recall, liking and reach.” (footnotes omitted)). Jennifer Harris also discussed an experiment in which kids offered snack foods after playing online games with embedded ads for different unhealthy snacks consumed 50 percent more calories from unhealthy foods than the kids whose games did not have those ads. Harris Remarks, at 3:04 (referring to Jennifer L. Harris et al., *US Food Company Branded Advergaming on the Internet: Children's Exposure and Effects on Snack Consumption*, 6 J. CHILD. & MEDIA 51 (2012)); see also TINA Comment, at 8.

⁶⁹ See, e.g., Complaint at 3-13, *In the Matter of Epic Games, Inc.*, Docket No. C-4790 (2023), https://www.ftc.gov/system/files/ftc_gov/pdf/1923203EpicGamesComplaint.pdf (alleging that Epic Games tricked consumers, including kids, into making unintended purchases); Kresses Presentation, at 0:30 (discussing four CARU cases regarding manipulative in-app purchase schemes aimed at kids).

⁷⁰ Golin Remarks, at 3:09 (“[T]here was a study by Super Awesome that showed that . . . 25% of purchases in thpurchaseu2 Tc 0.00k (
