

CARU REFERS MARAPETS TO FTC

Company Declines to Modify Privacy Protections to Comply with CARU Guidelines

New York, NY – Oct. 29, 2007 – The Children’s Advertising Review Unit (CARU) has referred the operators of the Marapets Website, www.marapets.com, to the Federal Trade Commission, following the company’s refusal to modify privacy-protection and parental-consent functions at the Website.

The Website came to the attention of the CARU, the children’s advertising industry’s self-regulatory forum, through a consumer complaint. CARU monitors Websites for compliance with the guidelines incorporated into CARU’s Self Regulatory Program for Children’s Advertising (*Guidelines*) and the federal Children’s Online Privacy Protection Act (COPPA).

The Website, which features free animated virtual pets called “Marapets,” is attractive to children and the site’s privacy policy states that it has a large number of child players. The Marapet site offers activities that include shopping for accessories for a virtual pet, trading pets and auctioning pets for virtual currency. The Website also features games, clubs, and forums about Marapets and other user-created topics. Members can contact one another privately through the internal email system called “Maramail.”

Under the *Guidelines* and COPPA, the operator of a child-directed Website, or a Website operator who has actual knowledge that a child is under 13 years of age, must notify the parent and obtain the parent’s consent before the collection of any personally identifiable information (PII) from a child under 13. Under FTC regulations implementing the statute, “collecting” includes allowing children to post PII on a message board forum or anywhere that allows children to make their personal information publicly available.

When CARU first examined the Marapets Website, it allowed users under the age of 13 to register and post PII on the forums and club chats and receive Maramail without first obtaining verifiable parental consent. Although the operator asserted that users could not post personal information on the Website and noted that the forums, clubs and Maramail are moderated and filtered, CARU – which established test accounts at the site – observed that children under 13 years of age were posting their full names, ages, email addresses and photos on the Website. Additionally, two CARU staff members were able to register as 10 year olds and send Maramails that stated their full names, ages, states, and telephone numbers.

CARU notified the Website operator that the site violated the *Guidelines* and COPPA:

- By not obtaining verifiable parental consent prior to its allowing children under the age of 13 to use various Website features on which they could post personally identifiable information.
- By using an inaccurate and misleading parental consent form that states that the site’s forums and email are moderated and filtered, when in fact, children can disclose PII in those forums and email.
- By posting a privacy policy that fails to disclose clearly that children have the ability to post PII and does not list the operator’s company name and telephone number.

CARU recommended that the operator require all children under 13 who had previously registered without obtaining prior parental consent, to re-register with verifiable parental consent or have terminate those accounts and recommended the operator modify its privacy policy and parental consent form to comply with COPPA Rule.

In response, the operator said the site had experienced a technical error, since repaired, that allowed children under 13 to potentially post information. The operator said it had terminated some of the accounts of children who joined during that period, but could not determined if all accounts for children under 13 has been terminated. The operator stated that it had modified its procedures so that children registering as “under 13” could not access Website features where they could publicly post PII without parental consent. The operator also declined to include a telephone number in its privacy policy.

CARU, in its decision, noted that “despite the assertions by the operator that it had deleted some accounts of users after it learned of the defect in its age screening mechanism, CARU confirmed that all of the test accounts it had opened as children under the age of 13 remained active. Furthermore, the operator failed to modify its parental consent form and privacy policy to comply with the *Guidelines* and COPPA.”

As a result, CARU said, it will refer this matter to the appropriate government agency as required by the NAD/CARU/NARB Procedures.

NAD's inquiry was conducted under NAD/CARU/NARB Procedures for the Voluntary Self-Regulation of National Advertising. Details of the initial inquiry, NAD's decision, and the advertiser's response will be included in the next NAD/CARU Case Report.

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About Advertising Self-Regulation: The National Advertising Review Council (NARC) was formed in 1971 by the Association of National Advertisers, Inc. (ANA), the American Association of Advertising Agencies, Inc. (AAAA), the American Advertising Federation, Inc. (AAF), and the Council of Better Business Bureaus, Inc. (CBBB). Its purpose is to foster truth and accuracy in national advertising through voluntary self-regulation. NARC is the body that establishes the policies and procedures for the CBBB's National Advertising Division (NAD) and Children's Advertising Review Unit (CARU), as well as for the National Advertising Review Board (NARB) and the Electronic Retailing Self-Regulation Program (ERSP).

NAD and CARU are the investigative arms of the advertising industry's voluntary self-regulation program. Their casework results from competitive challenges from other advertisers, and also from self-monitoring traditional and new media. The National Advertising Review Board (NARB), the appeals body, is a peer group from which ad-hoc panels are selected to adjudicate those cases that are not resolved at the NAD/CARU level. This unique, self-regulatory system is funded entirely by the business community; CARU is financed by the children's advertising industry, while NAD/NARC/NARB's sole source of funding is derived from membership fees paid to the CBBB. ERSP's funding is derived from membership in the Electronic Retailing Association. For more information about advertising self regulation, please visit www.narcpartners.org.