

Advertising Depicting Movement of Stationary Toys

Applicable Provisions of CARU Principles and Guidelines

CARU's Guidelines take into account "the special vulnerabilities of children, e.g., their inexperience, immaturity, susceptibility to being misled or unduly influenced, and their lack of cognitive skills needed to evaluate the credibility of advertising." [Overview of the Self-Regulatory Program]

The following Core Principle and guidelines (among others) apply specifically to product demonstrations in toy advertising primarily directed to children under 12.

- Advertisers should have adequate substantiation for objective advertising claims, as those claims are reasonably interpreted by the children to whom they are directed. [Core Principles (3)]
- The "net impression" of the entire advertisement, considering, among other things, the express and implied claims, any material omissions, and the overall format, must not be misleading to the children to whom it is directed. [General Guidelines, (a) Deception (1)]
- Copy, sound and visual presentations should not mislead children about product or performance characteristics. Such characteristics may include, but are not limited to, speed, method of operation, color, sound, durability ... [General Guidelines, (b) (1), Product Presentations and Claims]
- Advertisements should demonstrate the performance and use of a product in a way that can be duplicated by a child for whom the product is intended. [GG, (b) (4)]
- Claims should not unduly exploit a child's imagination. While fantasy, using techniques such as animation and computer-generated imagery ("CGI"), is appropriate for both younger and older children, it should not create unattainable performance expectations nor exploit a younger child's difficulty in distinguishing between the real and the fanciful. [GG, (b) (3)]

Application to Toy Advertising Portraying Movement of Stationary Toys

The following is meant to provide guidance for CARU and the industry on the application of these general standards to advertising that depicts toys performing movements that they are not capable of doing without human manipulation.

Many if not most commercials for toys demonstrate the toys' play value. Toys that do not move on their own, or cannot perform certain movements on their own,

should not be portrayed in advertising in a manner that will lead children to take away the net impression that the toys move on their own.

CARU is concerned with the overall take-away message of the commercial. Under this approach, CARU looks to determine what messages the commercial would convey to a reasonable child.

Methods that contribute to a misleading impression about a toy's abilities include the use of stop-action, quick cuts interspersed with animation, disguised or inconspicuous hand manipulation and other techniques. To avoid misleading children, commercials for toys that do not move on their own, but that are depicted as moving, should clearly and conspicuously demonstrate how the toys are made to move. To do so, the demonstration should be of sufficient length and clarity that children viewing the commercial take away a clear understanding of how the toy operates in the real world during real play.

In reviewing commercials CARU will look at the clearness and conspicuousness with which hand manipulation is demonstrated. Factors that can detract from clearness and conspicuousness include: the brevity of the shot; techniques to minimize the appearance of the hand manipulation, such as shots of fingers on flesh tone parts of the doll; the use of black sleeves to minimize the appearance of arms in close shots; and techniques such as having the person manipulating the doll hidden behind a platform or other scenery.

When a doll or toy that cannot move on its own is depicted as moving, there should be a clear and conspicuous appearance of a hand(s) (or a person) manipulating the doll or toy in the necessary manner that will achieve that movement. It may not be necessary to show hand manipulation in every scene. For example, fantasy segments that are clearly recognizable as such by children, are proper as long as they are not the predominant part of the commercial.

Scenes in which children are shown actually playing with and manipulating the toys are one method of conveying to children how the toys perform.

The examples below provide additional guidance on what types of demonstrations create (or do not create) a misleading net impression.

Examples of commercials that would not comply with the Guidelines:

1. A commercial for stationary dolls depicts several dolls dancing to music. The advertisement contains several shots of fingers on the toy that are intended to convey that the toy is being moved by a child or adult hand. The shots of the fingers are brief and the fingers often blend in with the flesh color of the doll. As a result, they are not noticeable during ordinary viewing. These shots are insufficient to communicate the presence of a child or adult moving or otherwise manipulating the dolls. The commercial contains a voiceover at the end stating

“Dolls do not move on their own.” This commercial is not in compliance with the General Guidelines on avoiding, (a) Deception, because it is likely to create the net impression that the dolls can dance without the need for a person to manipulate them, when such is not the case. This commercial also is not in compliance with General Guideline, (b)(1) and (4) because it creates unreasonable expectations about the products’ performance. The net impression is not changed by a voiceover that contradicts the depictions seen by children in the commercial.

2. A commercial for a toy soldier figure depicts the figure saluting. The saluting motion is depicted as fluid and effortless, when in fact this motion can only be achieved through strenuous manual manipulation of the toy soldier’s arm. The only manipulation shown is a shot of a finger on the doll’s hand. The salute in question cannot be executed by use of a single finger. This depiction violates both the Deception and Product Presentations and Claims sections of the Guidelines for the reasons given in example 1.

3. A commercial shows a doll whose hair color changes from blonde to black. This is clearly demonstrated by showing little girls combing the dolls’ hair as it changes color and then having a clear and prominent audio statement, “Wet dolls’ hair to turn it back to black.” The commercial also depicts several dolls swaying back and forth while sitting on a table top. There is no clear demonstration of the dolls being manipulated to perform that action. The only manipulation shown is a brief, shot of a hand on one side of the group of dolls with the person, presumably, sitting out of sight behind the table. The presence of the hand is noticeable only on close inspection of the commercial. Although the earlier portion of the commercial shows children actually playing with the dolls, this demonstration is not relevant to the subsequent shot of the dolls rocking back and forth. This depiction is not in compliance with the guidelines because it can create the net impression that the dolls move on their own.

4. A commercial features CGI of toy fighter jets flying through space and attacking other aircraft. These scenes are interspersed with brief shots of the toy jets, which cannot fly. The only demonstrations of the fact that the toys cannot fly are two brief shots, one depicting two fingers on one of the toys jets and another shot quickly showing part of a hand holding the toy. Most of the commercial focuses on the CGI scenes, and there is no clear scene establishing that the toys must be held by children to make them “fly.” This commercial is not in compliance with the General Guideline on avoiding deception and creates unrealistic performance expectations and also exploits children’s difficulty in distinguishing between what is real and what is fantasy.¹

¹ Because of the realistic nature of CGI imagery, it is especially important to distinguish CGI segments from real world footage. The use of CGI will be the subject of further consideration by CARU. Until CARU publishes a new guidance concerning CGI, CARU’s precedent as set forth in LEGO SYSTEMS, INC/BIONICLE® Inika Figures, Report # 4613, *NAD/CARU Case Reports* (January 2007) will be followed.

5. A commercial for dolls depicts the dolls holding objects in their hands. The dolls ordinarily are incapable of holding objects in their hands and to produce the commercial the objects are held in place by rubber bands. The use of rubber bands is not clear in the advertising. This commercial is not in compliance with GG, (a) Deception. It creates the net impression that the dolls can, unaided, hold objects in their hands. The commercial also violates GG, (b) (1) and (4) Product Presentations and Claims, because it creates unreasonable expectations about the product's performance.

Some examples of commercials that would comply with the guidelines:

1. A commercial for stationary dolls starts with a short scene of girls at a nail salon, followed by a clear and conspicuous scene of dolls at the salon having their nails done by the girls. The girls are then shown manipulating the dolls' hands and arms as the dolls show their newly "done" nails to the other dolls. There are no scenes where the dolls appear to move on their own.

2. A commercial for stationary toy dogs features the dogs doing a series of tricks and participating in a race. Every scene shows the dogs being manipulated by a child or child's hand, except for a short and obvious animated fantasy sequence of dogs racing on their own.

3. A commercial for stationary dolls depicts a group of the dolls on the ski slopes. Clear and conspicuous hands of girls are shown manipulating the dolls, except for a close-up of the dolls' faces where no hands are visible. There are scenes of hand manipulation both before and after the close-up.