

Are brands that target kids gaining parental consent?

Comprehensive laws about consent are not yet in place, so how can firms that target kids act responsibly, asks Mark Sweney

The internet has become a key medium for brands wanting to target kids. But UK legislation has yet to include clear laws on gaining permission to gather personal information from children. There is nothing in the Data Protection Act that lays down the age at which a child can use a web site without parental consent.

The Electronic Communications (Data Privacy) Directive, which will become law in the UK by October 2003, establishes opt-in

policy for email and SMS marketing, but the DTI has yet to publish draft regulations on how this will work in practice.

To bridge the gap, the UK Information Commissioner has issued guidance on compliance, suggesting that brands gain "explicit consent" from parents. If there is no adequate method of verifying parental consent online, it proposes postal clarification as the only option. So where does that leave brands that target kids now?



Robert Dirskovski head of interactive media, Direct Marketing Association

In practice, it is extremely difficult to verify parental consent. Even when a child has provided his or her parent's email address and consent has been sent from that address, how can anyone be certain that the parent was the sender? In such circumstances, the Information Commissioner suggests it would be advisable to revert to postal communication.

This undermines many of the benefits of the web, especially its immediacy. It is questionable whether children will ask their parents for consent, and whether parents will take time to confirm consent by post. The situation will not be practicable until there is widespread domestic use of electronic signatures.

If the Commissioner chose to enforce that guidance, it would seriously hamper the development of e-commerce and online marketing. Marketing departments for companies seeking to develop relations with children online have a real dilemma, since the Commissioner advises any proposed marketing activity to children be abandoned if verifiable consent has not been received.

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Steve Barton chief executive, Leonardo

Explicit consent is not law, but a suggestion. We are working with clients such as Kellogg and Disney as if it is law, as that is the appropriate brand response. Almost every brand that deals with children will be aware of consent, but I'm sure a lot of them don't follow the guidelines.

I think the burden of compliance is on the new-media agencies to monitor, as clients come to us for consultancy – just as it is for television or radio advertising restrictions. The online restrictions may put some children off, as part of the fun of the internet for kids is doing things out of their parents' reach.

But there are plenty of things brands can do online with kids without having to gain consent. It will make FMCG brand owners look at a larger number of ways to deliver loyalty retention with new concepts and ideas.

Joanne Barlow senior marketing director, Cartoon Network

We require consent from any child under the age of 16. If children are interested in joining our email list, they can do it at our offline events or in print competitions, where we require name, email address, date of birth, gender and parent's signature. Online applications must provide the email address of a parent.

The whole area is a little unclear, though. We check legislation and try to go beyond that to show responsible care. There is no foolproof way of ensuring the email address given is actually the parent's, but you can generally tell if it is genuine by the type of content a 12-year-old would include in the email reply.

We have a three-level opt-in process to make sure the child is keen to join our club. We may lose a few registrations as a result, but we know we are getting true fans.



Liz Taylor director, Logistix Kids

Clients are relatively unaware of specific codes of practice and legislation, whether we are talking mobile, internet or classic advertising. There is the expectation that agencies will be aware and comply.

It may be problematic for large companies to entrust

such responsibilities to smaller new-media agencies. It is somewhat of a grey area until there is actually an issue where a company steps over the boundaries and is challenged.

How this is handled by companies will depend on where the new-media spend falls. If it is part of the general ad budget, it will be more closely monitored, because brands tend to have long-term contractual relationships with suppliers. But if it falls into below-the-line spend, there will be less controls because activities such as promotions and design are handled on a project-by-project basis. There is a greater chance that client compliance with new legislation will fall through gaps.