AANA

BEST PRACTICE GUIDELINE – RESPONSIBLE MARKETING COMMUNICATIONS IN THE DIGITAL SPACE

INTRODUCTION

This Guideline is a 'best practice' guide for marketers, their agencies and the community to help them to understand the application of the AANA self-regulatory codes in the digital space.

The AANA Codes are platform and media neutral and apply to existing digital media. It is envisaged that the Codes will apply to any future form of digital marketing that may be developed and that the Codes will evolve, if necessary, to remain relevant and applicable. For simplicity, in this Guideline, the term "digital marketing" is used to refer to advertising or marketing communication on any digital platform.

This note also provides guidance to help ensure best practice in relation to transparency and privacy in the online environment.

1. WHAT DOES THIS GUIDELINE APPLY TO?

a. Material which draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct and:

  • which is under the reasonable control of the advertiser, whether or not a payment or other valuable consideration is involved;

  • which is communicated via a website or social media page or other digital environment; and

  • where any of the customers of the product, service etc are physically present in Australia and the advertising or marketing communications are directed to those customers.

b. Examples of digital marketing include all forms of commercial communication on:

  • Brand-owned websites or brand-managed social media pages (including mobile and tablet versions), including 3rd party user-generated comment (UGC)

  • Independent social media sites (e.g. Facebook, LinkedIn, Twitter)

  • Social news sites (e.g. Reddit)

  • Video sharing sites (e.g. Youtube, Vimeo)

  • Wikis (e.g. Wikipedia, PBwiki)

  • Apps (e.g. mobile and web based applications)

  • Blogs and microblogs

  • Photo sharing sites (e.g. Flickr, Instagram, Pinterest)

  • Podcasts

  • RSS feeds

  • Interactive digital point of sale and billboards

  • Interactive TV services

  • Advergames

  • MMS/SMS

This list is not exhaustive.

2. WHAT IS EXCLUDED?

The AANA Codes do not apply to :

a. Material, including UGC, posted on digital sites or platforms over which the brand owner does not have reasonable control, even if brands or products of the brand owner are featured.

b. Corporate reports including corporate public affairs messages in press releases and other media statements, annual reports, statements on matters of public policy and the like.

For more information see the AANA Code of Ethics Practice Note.

3. USER-GENERATED CONTENT

UGC on a brand owned website or social media site is the

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responsibility of the brand owner and should be monitored on a regular basis.

Also, UGC that is endorsed, incorporated, distributed or actively promoted by a marketer for marketing purposes would also be covered by the Codes. Examples include the marketer "liking", "retweeting", "sharing" or otherwise distributing social media comments in other media.

Managing consumer interactions

Many digital platforms provide functionality and mechanisms for brands to define and manage the way consumers interact with them and with each other.

AANA recommends making use of the following functions to manage consumer interactions in a brand's digital space:

- Notifications management: sends an email notification to a nominated email address when a customer posts, comments or sends a message to a brand's page.
- Permissions management: allows a brand owner to restrict viewing of a page to specific countries and/or age groups.
- Mobile page management apps: allows a page owner to review UGC via a mobile or tablet (for example, Facebook has a Pages Manager mobile application).
- Profanity block list: blocks posts/interactions which contain proscribed words or phrases. These can be set to different filter levels (e.g. strong, medium) so that UGC can be appropriately managed according to brand and audience requirements.

Each platform provides its own mechanisms for managing UGC and brands should familiarise themselves with the functionality available when establishing their digital presence.

How should UGC be moderated?

What is considered reasonable review of UGC will differ by brand owner and brand, and will be based on the digital site or platform, the expectations of the relevant digital community, and the level of activity on the digital site or platform.

In terms of best practice for the review of UGC, the AANA recommends that:

- brand owners should consider monitoring their social media pages at least once every business day, as standard, and on non-business days, consistent with the brand's level of activity and consumer engagement;
- during periods of increased engagement (by the brand owner or by users), brand owners should increase their frequency of monitoring;
- where possible, immediately following and for a least two hours after a new post, brand owners should

monitor for further posts;
- where possible, brand owners should make available a mechanism to allow users to notify the brand owner of any UGC they consider to be unacceptable;
- where possible, brand owners should consider using automated software to remove UGC which clearly offends prevailing community standards;
- guidelines or 'house rules' which clearly define what is and is not acceptable UGC should be developed and be made easily accessible to registered users;
- pre-vetting of UGC is not generally required (although brand owners may find language profanity filters, as mentioned above, useful).

Responding to ASB queries about UGC

If a complaint about UGC is received by the ASB, it will notify the brand owner and the brand owner should review the UGC against the relevant AANA Code. Relevant AANA practice notes are available and AANA members can approach the AANA for advice and assistance. If, in the brand owner's judgement, the UGC breaches an AANA Code, the offending UGC should be immediately amended or removed.

The ASB will not usually consider complaints about material that has been removed at the time that the complaint is received, or subsequent to the receipt of the complaint but prior to consideration by the Advertising Standards Board. However, the ASB will consider whether the advertisement was current at the time the complaint was made, whether the advertiser intends to republish the material and whether the complaint raises a significant issue of public interest.

4. ADVERGAMES & APPS

Advergames are typically electronic games that are used to advertise a product, brand or organisation. They are accessible on social media sites, companies' own websites and as downloadable content or apps on mobile devices. The Codes apply to advergames in the same way as other digital content. Particular care should be taken when promoting food and beverage products or products to children as the Codes contain particular requirements in these contexts.

While material should be assessed on a case by case basis, some guidance can be gleaned from previous ASB decisions:

- Advergames or apps are considered to be advertising or marketing communication if they are intended to draw the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct and if they are under the reasonable control of the advertiser.
- Significant product branding within an app could

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be considered to draw the attention of a segment of the public to a product in a manner calculated to promote or oppose directly or indirectly that product, meaning that such an app would also be covered by the Codes.

- While "age-gating" is good practice it does not necessarily affect whether or not an interactive game is directed primarily to children. The ASB will consider the content of the game and could decide that the game itself is directed primarily to children even though the method of access is not.

- In relation to food and drink, where a game involves the collection of certain "tokens" to progress to the next level, using a digital version of the product as the token does not necessarily depict or encourage excessive consumption as the concept of saving tokens is a common theme across games.

- Where an app generates a "fact of the day" or other daily activity, this does not necessarily suggest consuming the product every day. A reference to consuming the product each day might be considered to be encouraging excessive consumption, but providing information every day is not inconsistent with or undermining of a balanced diet or healthy lifestyle.

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5. BLOGS, VLOGS, TWEETS AND REVIEWS

In this guideline blogs, vlogs, tweets and reviews etc are referred to as "commentaries" and bloggers, vloggers, tweeters and reviewers are referred to as "commentators".

A commentary, including content produced by a third party, is considered to be marketing communication if the brand owner has reasonable control over the content. In such cases, the Codes will apply to that content.

For example, a sponsored celebrity may produce commentaries in which the content is stipulated by or agreed with the brand owner. In such circumstances, the commentary would be considered a marketing communication.

Transparency is key in digital communication.

6. TRANSPARENCY IN DIGITAL COMMUNICATION

Responsible marketing allows a consumer to distinguish between independent editorial content and commercial communication.

Advertisers and marketers should provide consumers with prominently visible cues to enable them to immediately understand that they are engaging with 'paid for' marketing content that is not editorially independent. The AANA and the IAB have developed 'Native Advertising Principles' which provide more detailed best practice guidance in relation to native advertising.

If a marketer or their agent engages a commentator to generate content in exchange for payment or other valuable consideration it should be clear to the consumer that this is the case. Such content will also come under the AANA Codes.

Where testimonials are permitted legally, they must be genuine and must not be edited in a way that misleads the reader or viewer. Brand owners should note that provisions of the Australian Consumer Law in relation to misleading or deceptive conduct apply to 'reviews' and 'testimonials' and refer to the ACCC guideline on this topic.

7. DATA PROTECTION & PRIVACY

When collecting or using personal data from individuals, care should be taken to respect and protect their privacy by complying with relevant legislation and the marketer's own privacy policy. Like all other aspects of the Codes, this also applies to digital marketing.

AANA and other industry members have developed the Australian Guideline for Online Behavioural Advertising (OBA). The Guideline sets out seven self-regulatory principles designed to ensure that consumers have transparency, choice and control over their online advertising preferences and to encourage good practice and accountability in businesses that deploy OBA.

Location based services (LBS) can be used for marketing campaigns and competitions where the marketing message is sent based on the location of the recipient at a given time. An example is where a user sends a text to enter a competition and by entering agrees that their location can be used as part of the competition. Brand owners should obtain consent for any passive LBS marketing, explaining to users when they opt in to receive

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marketing that they must identify their location and how their location details will be used.

8. COMMERCIAL ELECTRONIC MESSAGES

When sending commercial electronic messages, such as email, SMS, MMS or IM, brand owners must comply with relevant legislation and consider these key issues:

- Consent: Only send commercial electronic messages with the addressee's consent – either express or inferred consent.
- Identity: Include clear and accurate information about the person or business that is responsible for sending the commercial electronic message.
- Unsubscribe: Ensure that a functional unsubscribe facility is included. Deal with unsubscribe requests promptly.

9. EMPLOYEES & SOCIAL MEDIA

An employee's use of social media can result in employers being held responsible for their conduct, even outside office hours. Brands should adopt a clear social media policy for its employees and communicate it appropriately.

Where brand owners have provided material for their employees to promote a product or service via social media or similar means of communicating brand messages, the material would likely be covered by the Codes if that material is reproduced substantially unaltered. Brand owners should stipulate in job descriptions, employment contracts or other employee requirements/policies whether a particular employee is able to make material or comments available on the brand's behalf. Where a brand owner anticipates that employees will publish content in the own name in personal social media which may be associated with the brand, they should require employees to use a disclaimer indicating that the comments about the brand are their own.

Any policy should also be monitored regularly for compliance.