



The FTC released a [staff paper](#) in September 2023 directed at businesses and social media influencers who promote products to children online.

The paper includes findings from the FTC's October 2022 [workshop](#), "Protecting Kids From Stealth Advertising in Digital Media," which addressed the issue of blurred advertising that makes it hard for children to distinguish advertising content from other digital content.

Expanding on the workshop, the FTC expressed concerns about blurred advertising communicated to children on video channels and gaming and social media platforms. According to the FTC staff paper, the most effective way to protect children is to not blend advertising and non advertising content. However, recognizing that such marketing may continue, the FTC staff recommends five practices that advertisers and platforms should

implement to mitigate harm to children:

- **Avoid mixing advertising and entertainment.** Companies should not mix advertising with children's entertainment and educational material. Advertisers are advised to use formatting techniques and visual and verbal cues to alert children that they are viewing advertising. These cues can be brief bumpers (e.g., "After these messages we'll be right back!"), distinct backgrounds, music cues, or voiceovers.
- **Provide clear disclosures.** Effective disclosures are important because they help children to recognize advertising that is embedded in entertainment content. These disclosures should be prominent and made both aurally and in text. Also, disclosures should be easy to read and understand (e.g., "Company X paid me to show you this so you will think about buying it" may be easier for kids to understand than "paid promotion" or "sponsored content.")
- **Use recognizable icons to identify advertisements.** The FTC supports the use of a visible and well-understood icon to help children identify advertising.
- **Promote education.** Education and advertising literacy for both kids and parents is critical in helping children detect and understand the intent behind these messages.
- **Platform responsibility.** The FTC strongly advises platforms to (1) develop regulations for identifying blurred advertising and to enforce these policies when they discover violations; and (2) offer parental controls that allow parents to limit or block their children from seeing sponsored content.

Throughout the report, the FTC repeatedly emphasized that it is not realistic to expect parents to constantly monitor their children's online activities. Rather, creators, advertisers, and platforms have a responsibility to prevent and mitigate harms caused by blurred advertising. Brands that engage in blurred advertising can face legal consequences under the FTC Act if their actions are found to be deceptive or unfair to children. To mitigate risk, we recommend that brands advertising to children review the staff report and consult with legal counsel.

## Authors



### Jason S. Howell

Partner

[JHowell@perkinscoie.com](mailto:JHowell@perkinscoie.com) [206.359.3134](tel:206.359.3134)



### Wonji Kerper

Associate

[WKerper@perkinscoie.com](mailto:WKerper@perkinscoie.com) [206.359.3795](tel:206.359.3795)



## **Nathan W. Kosnoff**

Discovery Attorney

[NKosnoff@perkinscoie.com](mailto:NKosnoff@perkinscoie.com) [206.359.6673](tel:206.359.6673)

### **Explore more in**

[Consumer Protection](#)

Blog series

## **Consumer Protection Review**

Consumer Protection Review helps businesses that market and sell to consumers navigate federal and state legal issues related to advertising, privacy, promotions, products liability, government investigations, unfair competition, class actions and general consumer protection.

[View the blog](#)