

## **DRAFT PLEDGE GUIDANCE – This is still in draft form please use it as such**

### **Background**

In June 2011, the Bailey Review into the ‘commercialisation and sexualisation of children’ called for the employment of children as brand ambassadors and in peer-to-peer marketing, where people are paid, or paid in kind, to promote products, brands or services, to be prohibited.

In response, the advertising industry (co-ordinated by the Advertising Association) created a Best Practice Pledge on the use of under 16s in brand ambassador and peer-to-peer marketing. Since its launch at the October Downing Street Summit, the pledge has garnered widespread industry support (both through companies and industry associations) and this support continues to grow.

### **Why does the pledge exist?**

The pledge exists to tackle public and political concern regarding inappropriate marketing to children. In ‘Letting Children be Children’, author Reg Bailey noted that “*regulators cannot realistically be expected to anticipate detailed developments in the new media. However, an absence of regulation does not absolve businesses from acting responsibly by themselves... marketers [should] not exploit any gaps in advertising regulation in order to unduly influence the choices children make as consumers.*”

Recommendation 8 of the Bailey Review: **Prohibiting the employment of children as brand ambassadors and in peer-to-peer marketing.** CAP and other advertising and marketing bodies should urgently explore whether, as many parents believe, the advertising self-regulatory codes should prohibit the employment of children under the age of 16 as brand ambassadors or in peer-to-peer marketing – where people are paid, or paid-in-kind, to promote products, brands or services.

The pledge was created to address under-16 brand ambassador and peer-to-peer marketing activities not covered by The UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing (CAP Code). The CAP Code does not cover ‘live oral communications’<sup>1</sup> but does cover peer-to-peer marketing where anyone is paid or received a reciprocal benefit and there is editorial control of the marketer for endorsing a brand. For example, if a child was not paid but received a reciprocal benefit for promoting a product or brand to friends by sending an e-mail or posting a message on a social networking site, and the marketer had editorial control of that message, the Code would apply to that marketing communication.

However in response to the Bailey Review recommendation and the industry pledge, CAP has committed to formally [reviewing](#) the use of children as brand ambassadors and in peer-to-peer marketing, with a view to considering whether a change to the CAP Code is necessary.

### **What does the pledge prohibit?**

The concern raised in the Bailey Review regards the potential distortion of children’s relationships, where companies pay children as marketers of goods or services *to their peers*. This type of marketing has been labelled ‘insidious’ and ‘stealthy’, and the pledge exists to discourage industry from using techniques which some consider questionable. The pledge means that young people under the age of 16 should not be employed and paid to actively promote goods and services to their peers.

### **What does paid or paid-in-kind mean?**

---

<sup>1</sup> CAP Code II i

The concern surrounds direct payment and the use of gifts, goods and services as a reward for a child using their relationships with friends and peers to promote a brand, product, good, service, cause or idea. So the guidelines DO NOT exclude children being offered, for example, a free t-shirt by a brand but they WOULD exclude that brand expecting any promotional or marketing activity from the child to his/her peers in return. The distinction lies in the action expected of the child.

### **What does employed mean?**

Employment is not defined by the presence of a contract; it encompasses the 'active recruitment' of a child and covers informal relationships where a child is receiving payment or payment-in-kind. The pledge DOES NOT include, for example, a child blogger recommending a book to peers and using an application to earn a referral fee. It DOES, however, prevent a publisher recruiting child bloggers and providing free books **on the understanding that the child will promote them.**

### **How is the pledge enforced?**

The purpose of the pledge is to promote this best practice principle. A number of large brands and industry associations support the pledge, and are committed to highlighting to all marketers that such techniques are not appropriate, however the pledge will apply only to those supporting parties, not the rest of the market. Those industry associations which have membership rules or codes of conduct have included the pledge into those codes; in these cases refusing to abide by the principle of the pledge could lead to sanctions, including withdrawal of member benefits.

There are no official tools of monitoring or enforcement; the pledge is reliant on signatories conforming voluntarily. Signatories who choose to ignore the best practice principle and use under 16s in such forms of marketing, as always, face public scrutiny and the likely negative publicity that would follow.

### **Does this affect children interacting with and talking about brands on social networks?**

The concerns raised in the Bailey Review regard the potential distortion of children's relationships, where companies pay children as marketers of goods or services to their peers. Under the pledge, a child should not, for example, be employed to market a product to friends through social networks but this is NOT about preventing any interaction between children, advertising and the commercial world.

Interacting with brands (e.g. 'liking'/'+1-ing') can be part of how young people use social networks to talk about their interests. Encouraging interest in a brand through, for example, offering a free download in exchange for such interaction is not banned under the pledge. This mechanism lacks direct promotion to a peer. A brand could not, however, reward with a free download for direct promotion to a peer, for example a personal recommendation to a friend's own social networking page.

Furthermore, a brand could NOT *set out* to employ children or recruit and pay them to interact with the brand's presence/page on a social network.

### **Does this affect children appearing in adverts?**

The concern addressed by the pledge is the commercialisation of child's relationship with their peers. A child actor in an advertisement excluded from the remit of the pledge as it does not involve the child directly marketing to their friends.

### **Why under-16s as an age?**

Under-16 is the default 'age of a child' in UK advertising regulation. One way of providing a safeguard to ensure that a marketing campaign is compliant with the pledge is to include age verification measures which ensure that only those aged 16+ engage with the campaign.

### **Does this affect children being paid to deliver a 'socially good' message?**

The concern surrounds direct payment or the use of gifts, goods and services as a reward for the promotion of something to a child's peer group – whatever the product, service, idea or cause. Organisations can work with children to encourage them to talk to friends about socially helpful subjects but they should not pay or reward them for doing so.

### **What does this mean for fan clubs?**

Incentivising a child to join a fan club (e.g. for a music group/sports club), for example with a free download, would not fall under the remit of the pledge, as it does not commercialise the child's relationships. If, however, an U16 fan was rewarded – with a free download or club merchandise – **for recruiting friends to join the club**, this would be in breach of the Pledge, as the child is being paid-in-kind to encourage their peers to join, i.e. the relationship between child and peer has been commercialised.

### **Is market research with under-16s still permitted?**

A child being paid to test a product, for example a toy, and his/her positive comments being used in the company's subsequent marketing material is NOT in breach of the pledge, as the comments would be communicated by the company and not the child directly. As such, the child would not be acting as a brand ambassador nor commercialising their relationships with their peers.