

Practice Guide Managing Images of Children and Young People

INTRODUCTION

Concerns about the risks posed to children and young people, directly and indirectly, through the use of their images, particularly on the internet and other electronic media, have been voiced by governments and the community both internationally and in Australia.

AANA is committed to promoting best industry practice that facilitates a safe environment for children and young people. Fundamental to this commitment, is that advertisers/marketers take all reasonable steps to protect children and young people from unintended and inappropriate use of their images created for advertising or marketing communications.

AANA acknowledges and respects that children and young people:

- have a right to privacy and protection from exploitation or abuse;
- have a right to freedom of expression and involvement in the media, including advertising and marketing; and
- should not have their rights unduly restrained because of the improper actions of others.

As the interests and welfare of children and young people are paramount AANA encourages advertisers and marketers to be aware of the potential risks and take appropriate steps to address them.

This guide should be interpreted with reference to relevant Commonwealth, State and Territory legislation and regulation. For example, the circumstances where children and young people may require parental consent in addition to their own consent vary between the States and Territories and in regard to activities undertaken i.e. the requirements for working with children and censorship laws.

The information provided in this guide is of a general nature. The guide should be applied by the user with consideration of the relevance to their particular circumstances and exercise of the users own skills and care in relation to any material contained therein.

THE PRACTICE APPROACH

Definition

Image – means a representation of the likeness of a person captured, created and/or modified in any medium, including on film, electronic or digital technology.

Key Principles

- Consent • Dignity • Security/Privacy

CONSENT

Parents/guardians, children and young people have a right to decide whether the child or young person's image is to be taken and how that image may be used.

1. Parents/guardians, children and young people each:
 - a. must understand the nature and intended outcome of the advertising or marketing communication.
 - b. must be made aware of the way in which the image is to be used and how long the image will be displayed and distributed including on the internet and mobile technology.
 - c. must provide consent for the child or young person's image to be taken and used*.

***Notes:** It is a matter of commercial judgement whether written or verbal consent is required.

For persons 15 years of age and under parent/guardian written consent is required as to the nature of full or partial nudity.

Consent is not required for images of children/young people captured incidentally and where they were not employed by or on behalf of, or did not take direction from, or on behalf of, the advertiser/marketer in the creation of the image.

DIGNITY

Advertisers/marketers must respect the integrity of children and young people by taking action appropriate to their age and maturity to protect them from ill-treatment and exploitation, including sexual exploitation.

2. Advertisers and marketers must take reasonable steps to:
 - a. ensure a child or young person is always portrayed in a dignified and respectful manner.
 - b. clearly outline what is considered appropriate behaviour and content to those taking, creating or modifying images (eg photographer).

- c. ensure that images of children and young people are not sexually exploitative in nature, nor open to obvious misinterpretation and misuse.
- d. ensure when working with a person 15 years of age and under, and where they are to be fully or partly naked, that the parent/guardian commits to direct supervision of that person.**

****Note:** Persons 16 years and over may not require parental consent for a range of matters including employment.

SECURITY/PRIVACY

Children and young people have the right to be protected from being hurt - physically or mentally.

3. Advertisers and marketers must take reasonable steps to:
 - a. ensure that images are taken/created by authorised persons or obtained from sources where this can be ascertained.
 - b. clearly outline in a written contract to persons contracted or paid to take images: who retains the rights to the images; who retains the images taken, including arrangements made for negatives, digital files and proofs; and outline any restrictions for use and sale.
 - c. ensure all images of children are securely stored.
 - d. ensure that no identifying or contact information of the child or young person is used in the publication of, or accompanies the circulation/distribution, of images.
 - e. apply technological measures, where appropriate, to reduce the ability for unauthorised access, modification and copying of electronic/digital images.***
 - f. provide details to parents/guardians, children or young people of who to contact and what to do if concerns or complaints of inappropriate behaviour or image use are raised.
4. Advertisers/marketers should consider using adult models, mannequins, illustrations or animation if appropriate for the circumstances.

*****Note:** Examples include, but are not limited to, disabling the 'right mouse click' function, encoding with digital watermark, blocking unauthorised access to source data, tagging information in metadata.