



# **CMA Marketing to Children and Teenagers Guide**

## **A Purpose**

CMA Members believe that special attention needs to be given to the sensitive issues surrounding marketing to children and to teenagers. Sections K and L of the Canadian Marketing Code of Ethics and Standards provide marketers with clear guidance on appropriate business practices when marketing to these demographic groups.

Please note that this guide does not constitute legal advice. If you have specific questions about the application of the law to your marketing activities, seek legal advice. For more information, contact the [Public Affairs team](#) at CMA.

## **B Section K. Special Considerations in Marketing to Children**

### **Background:**

This section is intended to amplify the more general directives of the Canadian Marketing Code of Ethics and Standards as a whole and should be read in conjunction with sub-discipline and media-specific directives of the Code.

This section focuses on several key issues including the definition of age, consent, privacy protection and current practices of marketing and communicating with children.

Marketers are reminded that while these sections apply specifically to persons under 13 years of age, qualified legal advice should be sought to determine the enforceability of a contract with any person under the age of majority.

The overriding principle of this section is that children are not adults and marketers must respect involvement of the child's parent or guardian in any communication or transaction.

### **Commentary:**

#### **K1 Age**

The term child refers to someone who has not reached his or her 13<sup>th</sup> birthday. See the definition for teenagers in Section L1 below.

#### **K2 Responsibility**

This section stresses the need for extra care when marketing or communicating to children.

For the purposes of the Code, an interaction with a child includes all communications which:

- Address a child individually; and/or
- Use a child's personal information, or which call for the child to provide personal information; and,
- Provide an opportunity or means for the child to respond, including calls to action, such as providing a telephone number, e-mail or mailing address.

### **K3 Consent**

Not all children are equipped to make informed decisions about supplying personal information and perhaps no aspect of marketing to children is more sensitive or more intrusive than the gathering of a child's personal information. This section increases the level of privacy protection for children by requiring marketers to obtain express consent from a parent or guardian before a child's personal information can be collected, retained and/or transferred. Express consent (See Glossary of Terms) is unequivocal and does not require any inference on the part of the marketer.

Note that section M4.3 Special Care with Child Participants further details consent requirements for including children (and teenagers under the age of 16) in research projects. Express parental or guardian consent is required to interview children for research purposes. This applies to all channels, including research conducted online.

### **K4 Contests Directed to Children**

This section imposes strict requirements on the use of a child's personal information. Marketers are able to gather personal information from children in the instances where the child or their parent or guardian has volunteered the information through participation in a contest. The Code, however, severely limits the use and retention of that information.

### **K5 Credulity**

This section emphasizes that regardless of the marketing technique employed, marketers should exercise extreme sensitivity in any communication with children.

### **K6 Age-Appropriate Language**

This section expands on the principles already embodied in Section I of the *Code, Universal Marketing Practices*. It recognizes the unique aspects of marketing to children and the extra care marketers should use when communicating to young audiences.

An example would be the use of price comparisons or minimizations (such as "available for only \$XX" or "just \$3.99") which may not be appropriate when marketing to children. Not all children have the critical ability to compare the value of an object with its price or to assess whether goods similar to those offered may be obtained from another source. Offers limited to a specific time period or supply of products may legitimately be identified with terms such as "now" or "only" but marketers should use care not to employ such terms to develop urgency or exclusivity, as this would be an attempt to take advantage of a child's credulity.

Offers of goods or services should also include disclosures on: the completeness of a product or service (such as lack of batteries); necessary steps before the product or service can be used as represented (such as assembly required); or the availability of products separately (i.e. representation shows more than or otherwise significantly different from the focus of this offer).

## **K7 Commercial Transactions**

To respect the legitimate authority of parents and guardians, marketers should make every effort to ensure that all orders from children are accompanied by a parent or guardian's approval. This is particularly critical where the item or service ordered must be physically delivered, as taking the order will necessarily require the marketer to obtain personal information about the child.

In addition, while marketers must obtain the parent or guardian's express consent (See CMA Code Glossary of Terms) for the completion of a transaction, or before obtaining a child's personal information, this section is also intended to ensure that marketers do not use children as an extension of their sales force.

### **C Section L. Special Considerations in Marketing to Teenagers**

#### **Background:**

From society's perspective, teenagers are clearly not children, but neither are they fully responsible, autonomous adults. In many cases, they are evolving from one stage in their lives to another. The inherent complexity of dealing appropriately with teenagers is further complicated by the lack of clear rules in Canada that are consistent by age, by jurisdiction, or by field.

This section focuses on a number of key issues including definitions of age, the protection of personal information and consent.

This section is intended to amplify the more general directives of the Code of Ethics and Standards of Practice as a whole, and should be read in conjunction with sub-discipline and media-specific directives of the Code.

#### **Commentary:**

##### **L1 Age and Application**

The term teenager refers to someone who has reached their 13<sup>th</sup> birthday but has not yet reached the age of majority in their province or territory of residence.

This provision specifically excludes teenagers who may be living apart from their parents or guardians, such as university or college students living away from home, or those who are members of the Canadian Armed Forces.

##### **L2 Responsibility**

Teenagers are a complex and greatly varied audience that encompasses a very broad range of maturity, vulnerabilities and comprehension. This age group has many degrees and kinds of understanding of the:

- Workings of the marketplace;
- Implications of certain choices; and in particular
- Implications of divulging personal information.

Due to teenagers' comparative sophistication and their lack of knowledge of the workings of the marketplace, multi-level marketing, financed offerings and negative-option techniques should not be directed to teenagers.

From society's perspective, teenagers are clearly not children, but neither are they fully responsible, autonomous adults. While society and the law confer additional rights and privileges with increasing age (see examples in the list below), in many respects teenagers remain children – and enjoy certain protections – while they reside with their parents or guardians. Marketers should therefore use care and sensitivity in all communications with teenagers.

#### Examples of legal age milestones in Canada

- 12 - babysitting certificate (Ontario)
- 14 - obtain employment in retail/office (Ontario); rent certain videos (14A)
- 16 - driving learners permit (Ontario); can leave school (Ontario); marry with parents' written permission (Ontario); operate (water) pleasure craft (Canada); obtain accommodation (Ontario Human Rights Code – enforceable contract)
- 17 - private pilot licence (Canada)
- 18 - voting (Canada); marry without consent (Ontario); firearms licence (Canada); commercial pilot licence (Canada); marine certification (Canada); enter "R" rated movies; age of majority (Ontario); purchase tobacco (Alberta, Manitoba, Quebec, Saskatchewan, Yukon, NWT, Nunavut)
- 19 - purchase liquor (all provinces except Alberta, Manitoba and Quebec where the age is 18); purchase tobacco (Ontario)
- 21 - Airline Transport Pilot licence (Canada)

#### **L2.1**

This section stresses that marketers must use sensitivity to avoid glorifying or presenting unrealistic depictions of violence or unlawful behaviour in marketing to teenagers. More specifically, marketers must not portray sexual behaviour appropriate to adults using teenage or juvenile models or actors in marketing communications directed to teenagers. Marketers must use sensitivity in the promotion of goods or services to avoid encouragement of sexual experimentation or sexual behaviour by teenagers.

#### **L2.2**

This section directs that marketers must not suggest that a teenager need not consult, inform or obtain consent from a parent or guardian for a purchase. Similarly, where a marketer is obtaining information from a teenager and using screening questions to help determine the respondent's age, such questions should not be constructed or presented in a manner that encourages or invites teenagers to supply false information, or to indicate their parent or guardian's consent where they have not obtained that consent.

#### **L2.3**

This section details that marketers must not try to obtain household information (such as household income, the number of automobiles, the number of people in the household, the type or number of appliances, the educational attainments of household members, family vacation destinations, etc.) from teenagers. In addition, marketers should not solicit information from teenagers about their friends or peers.

### **L3 Consent**

This section contains definitions for the categories of information that can be collected, used and disclosed with the corresponding types of consent and the teenager's age.

CMA has identified 13 as the appropriate age at which marketers may begin to deal directly with teenagers for the collection and use of their contact information, provided that they obtain their express consent to do so. A distinction is drawn for teenagers under 16 concerning the disclosure of contact or personal information to third parties. The Association believes that there is an inadequate degree of maturity and sophistication in this age bracket and therefore the need for the direct involvement of the parent or guardian.

Also, Section M4.3 Special Care with Child Participants details consent requirements for including those under the age of 16 in research projects. Marketers must obtain express parental consent to interview children or teenagers under 16 for research purposes. This applies to all channels, including research conducted online.

The Association acknowledges that marketers have to determine the age of a teenager for these provisions to be effective. The means to do so is left at the discretion of the marketer. However, a distinction should be made between determining the age of a teenager and using that age information for marketing purposes. For this reason, we remind marketers that the definition of personal information captures age, and a higher level of consent must be obtained before it can be collected, used or disclosed for marketing purposes.

The Code's Glossary of Terms defines contact and personal information as follows:

**Contact information:** A subset of personal information, contact information refers solely to an individual's name, home address, e-mail address and/or telephone numbers. This subset of personal information is considered non-sensitive.

**Personal information:** Information about an identifiable individual. This does not include the name, title, or business address or telephone number of an employee of an organization.

Examples of personal information could include a teenager's age, driver's licence number, video rental card, or student identification, whether or not the teenager has or uses a debit card or credit card.

If marketers collect information that describes a teenager's individual preferences (likes and dislikes) on products and services including, but not limited to soft drinks, fast food, footwear, music, television or movies, they are advised that this becomes personal information if it can be matched against any data that identifies an individual.

### **L3.3**

This section addresses the issue of withdrawal of consent. Extending the general provisions of the Code, particularly in Section J Protection of Personal Privacy teenagers should be provided with an easy means to withdraw consent to end a marketing relationship. This section specifically requires marketers to delete all information obtained from a teenager where a teenager, parent or guardian revokes or declines permission. Be reminded that the Code requires that marketers maintain internal do not contact list for every channel by which they market.

It is important to note that in all cases the parent or guardian retains the right to withdraw consent for the collection of a teenager's information (regardless of type) and to have the marketer delete any information held.

### **L4 Exposure to Children**

This guideline parallels the concepts expressed in Section K of the Code, Special Considerations in Marketing to Children that marketers are responsible for the impression created in all younger people who may be exposed to their offers or other communications.

## L5 Credulity

This section emphasizes that regardless of the marketing technique employed, marketers should exercise extreme caution in any communication dealing with physical, emotional or financial well being addressed to teenagers, including, for example: health care, beauty aids, teeth whitening, personal care, nutrition, diet, fitness, or financial products or services.

## L6 Age-Appropriate Language

Marketers are encouraged to employ language that is simple, direct and easily understood by teenagers of a wide range of experience, sophistication and educational attainment.

## L7 Commercial Transactions

Marketers entering into contracts for the purchase and sale of goods or services with teenagers are urged to obtain qualified legal advice on enforceability of such contracts.

## D Section M4: Research

There is a third section of the Code that specifically relates to children or teenagers under the age of 16. Section M4.3 Special Care with Child Participants details that marketers must obtain express parental consent to interview children or teenagers under 16 for research purposes. This applies to all channels, including research conducted online.

## E Related Resources

- Section 248 of Quebec's [Consumer Protection Act](#) and sections 90 – 91 of its regulations.
- Ad Standards [Broadcast Code for Advertising to Children](#).

### About CMA Guides

Marketers need to have a broad skill set that includes knowledge of marketing compliance and best practices. The CMA and its members recognize that complying with all relevant laws and maintaining high standards of practice is a fundamental responsibility to the public, critical to the reputation of the marketing profession, and the foundation for a successful and strong business community.

The CMA is the leader in providing legislative and regulatory guidelines and articulating best practices for the marketing profession in Canada. We provide educational resources to maintain and strengthen the professionalism and integrity of the marketing community. Our members agree to comply with the Canadian Marketing Code of Ethics and Standards, which is widely recognized as a benchmark for effective self-regulation and is updated regularly.

For more information, contact the [Public Affairs and Thought Leadership team](#) at the CMA.

The Canadian Marketing Code of Ethics and Standards and related Compliance and Best Practices Guides do not purport to replace legal advice or guidance.

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