

**STATE OF FLORIDA
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LEGAL AFFAIRS**

In the Matter of:

AG Case Number: L11-3-1084

**TOYS “R” US-DELAWARE, INC. d/b/a/
TOYS “R” US, BABIES “R” US**, a Florida
Registered foreign corporation,

Respondent.

_____ /

ASSURANCE OF VOLUNTARY COMPLIANCE

PURSUANT TO Chapter 501, Part II, “The Florida Deceptive and Unfair Trade Practices Act,” Florida Statutes (2012), the STATE OF FLORIDA, OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LEGAL AFFAIRS (“Department”) investigated the marketing and advertising practices of TOYS “R” US-DELAWARE, INC., d/b/a/ TOYS “R” US and BABIES “R” US (“Respondent”) during the period from approximately December of 2010 to September of 2011 (the “Investigation Period”).

Respondent enters into this Assurance of Voluntary Compliance (“AVC”) with the Department without an admission of wrongdoing and for the limited purpose of resolving this matter only. Pursuant to Section 501.207(6), Florida Statutes (2012), the Department accepts this AVC in termination of its investigation into Respondent’s marketing and advertising practices.

A. STIPULATED FACTS

1.1 Respondent, Toys “R” Us-Delaware, Inc., d/b/a Toys “R” Us and Babies “R Us is a Florida registered foreign corporation with its principal place of business located at 1 Geoffrey Way, Wayne, New Jersey, 07470. Respondent hereby represents and warrants that Toys “R” Us-

Delaware, Inc. is the corporate entity that operates all Toys “R” Us and Babies “R” Us stores within the state of Florida.

1.2 Respondent is a specialty retailer of toys and juvenile products. Respondent operates approximately 873 stores throughout the United States including approximately 56 stores located throughout Florida.

1.3 The Department alleges that, during the Investigation Period, Respondent advertised, in weekly newspaper circulars and direct mailers, “20% off ANY one regular priced baby item,” and the following exclusions:

“In store only. Excludes ALL toys, baby food, diapers, formula, wipes, Ameda, Baby Brezza, Baby Jogger, BOB, Britax, Bugaboo, Cybex, ERGObaby, Mamas & Papas, Motherhood Maternity, Nap Nanny, Pediped, Peg Perego, Phil & Teds, Robeez, Tommee Tippee, Under Armour, electronic learning toys, netbooks, tablets, video game hardware, video games, Apple products, FAO products, RobotGalaxy, Buyer Protection Plan, gift cards, photo studios, phone orders, Special Orders, assembly fee, breast-pump rental fee, delivery fee, and shipping & handling.”

1.5 The Department further alleges that, during the Investigation Period, Respondent’s exclusions appeared in a font size, which was approximately half the size of the original claim.

B. GENERAL PROVISIONS

JURISDICTION AND VENUE

2.1 The parties agree that the State of Florida possesses jurisdiction over Respondent for the purposes of entering into this AVC and any enforcement actions arising out of this AVC.

2.2 It is further agreed by the parties that venue for any matter relating to or arising out of this AVC shall lie solely in Orange County, Florida.

DEFINITIONS

2.3 **“Advertising” (including “Advertisement” and “Advertise”)** shall mean a commercial message in any medium that directly or indirectly promotes a consumer transaction within the state of Florida.

2.4 **“Clear and Conspicuous” (including “Clearly and Conspicuously”)** shall mean that a statement, representation, claim or term is readily noticeable and reasonably understandable by the person(s) to whom it is directed. The following shall be considered in determining whether a statement, representation, claim or term is clear or conspicuous:

- a. Whether it is presented in a coherent and meaningful sequence with respect to other statements, representations, claims, or terms being conveyed;
- b. Whether it is in close proximity to the statement, representation, claim or term it clarifies, modifies, explains, or to which it otherwise relates;
- c. Whether it is contradictory to any statement, representation, claim or term it purports to clarify, modify, or explain, or is otherwise contradictory or confusing in relation to any other statement, representation claim or term being conveyed;
- d. Whether it is conveyed by means of an abbreviation and, if so, whether the abbreviation is commonly understood by the public, or approved by federal or state law;
- e. Whether it is legible;
- f. Whether it is of sufficient prominence in terms of print, size and contrast, as compared with accompanying statements, representations, claims or

terms, so as to be readily noticeable and reasonably understandable by the person(s) to whom it is directed;

- g. Whether it is at a decibel level and speed so as to be readily noticeable and reasonably understandable by the person(s) to whom it is directed; and
- h. Whether it appears for a duration of time sufficient to allow a listener or viewer to have reasonable opportunity to notice, read, and understand.

2.5 “**Material**” shall mean likely to affect a person’s choice of, or conduct regarding, goods or services.

2.6 “**Respondent**” shall mean Toys “R” Us-Delaware, Inc., and such other of its parents, subsidiaries, affiliated entities, partners, successors, and assigns that operate Toys “R” Us or Babies “R” Us stores in Florida, and each of their respective officers, directors, agents, and employees.

C. AGREEMENT OF COMPLIANCE

GENERAL COMPLIANCE PROVISIONS

3.1 Respondent shall comply with the following laws, where applicable:

- a. The Florida Deceptive and Unfair Trade Practices Act as contained in Chapter 501, Part II, Florida Statute (2012);
- b. Section 817.41, Misleading Advertising, Florida Statutes (2012);
- c. Section 5, Federal Trade Commission Act, 15 U.S.C § 45.

Disclaimers and Disclosures

3.2 Respondent shall not deceptively or unfairly contradict or materially modify an Advertisement or promotion through the use of fine print or disclaimers.

3.3 Respondent shall Clearly and Conspicuously disclose information necessary to prevent an Advertisement or promotion from being deceptive.

3.4 Respondent shall make the terms and conditions of this Agreement known to its Executive Vice President and General Counsel, Vice President – Litigation and Regulatory Counsel, and Senior Vice President of Marketing.

D. MONETARY TERMS

4.1 Upon execution of this AVC, Respondent shall pay to the Department the total sum of Twelve Thousand and No/100 Dollars (\$12,000.00) for investigative costs, attorneys' fees and future monitoring. Payment shall be made by check payable to the Department of Legal Affairs Revolving Trust Fund and shall be sent to Denise Kim, Assistant Attorney General, 135 West Central Blvd, Suite 1000, Orlando, FL 32801.

E. CONSTRUCTION AND INTERPRETATION

EFFECTIVE UPON ACCEPTANCE

5.1 The Department's Associate Deputy Attorney General or authorized designee may refuse to accept this AVC at his discretion, and the AVC shall only become effective upon its acceptance and signature.

5.2 This AVC may be signed in multiple counterparts, each of which shall be considered an original, and all of which together will constitute one and the same agreement.

BUSINESS RECORDS

5.3 In connection with the Department's future monitoring of Respondent, Respondent shall retain documents and other information reasonably sufficient to establish compliance with the provisions herein, and shall provide the Department reasonable access to such documents and information upon written request for two years.

CONSTRUCTION OF AVC

5.4 This AVC is the result of negotiations between the parties and shall be deemed to have been drafted by the Department and the Respondent. In the event of a dispute, this AVC shall not be construed against another party.

5.5 Respondent shall in no way represent that the Department has approved any of the Respondent's business practices, and shall not use the existence of this AVC to in any way imply such approval.

APPLICABILITY

5.6 This AVC shall apply to Respondent and each of its parents, subsidiaries, affiliated entities, partners, successors, and assigns and each of their respective officers, directors, agents and employees that operate Toys "R" Us and Babies "R" Us stores in Florida when engaged in such activity.

5.7 Respondent acknowledges and agrees that any failure to comply with the terms and conditions of this AVC is by statute *prima facie* evidence of a violation of Chapter 501, Part II, Florida Statutes (2012), and may subject Respondent to any and all civil penalties and sanctions provided by law, including awarding of attorneys' fees and costs.

CHANGES IN LAW OR BUSINESS PRACTICES

5.8 It is further agreed by the parties that if any statutes change due to amendment, repeal, or disposition by the legislature, an agency, or court so that they would permit any action prohibited by any section of this AVC, that section of this AVC shall no longer have any force or effect.

5.9 If any clause, provision, or section of the AVC shall, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect

any other clause, provision, or section of this AVC, and this AVC shall be construed and enforced as if such illegal, invalid, or unenforceable clause, section, or other provision had not been contained herein.

IN WITNESS WHEREOF, Respondent has executed this AVC in the County and State listed below, as of the date affixed thereon.

TOYS "R" US-DELAWARE, INC., d/b/a Toys "R" Us, Babies "R" Us,



By: Joel Tenenber
Its: NJ- Legislative Regulatory Council
Date: November 27, 2013

STATE OF NEW JERSEY
COUNTY OF PASSAIC

BEFORE ME, an officer duly authorized to take acknowledgments in the State of New Jersey, personally appeared Joel Tenenber, as authorized representative of Toys "R" Us-Delaware, Inc., and individually, he acknowledged before me that he executed the foregoing instrument for the purposes therein stated, on this 27th day of November, 2013.
Sworn to and subscribed before me this 27th day of November, 2013.

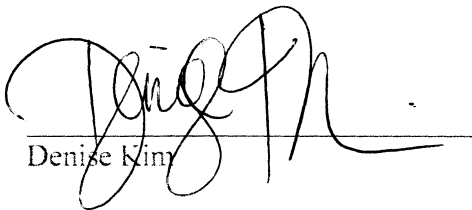
LAURA ANN VITO BELLO
A Notary Public of New Jersey
My Commission
Expires: June 13, 2018



NOTARY PUBLIC
(print, type or stamp commissioned name of Notary Public)

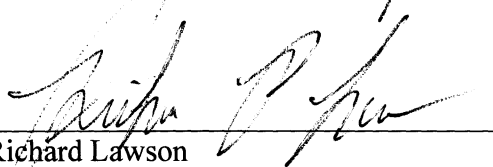
Personally known or
Produced identification _____ (check one)
Type of Identification Produced: _____

(Notary Public)


Denise Kim

Assistant Attorney General
Office of the Attorney General
Department of Legal Affairs
135 West Central Blvd., Suite 1000
Orlando, Florida 32801
(407) 245-0833 phone, (407) 245-0365 Fax

Accepted this 3 day of April, 2014.



Richard Lawson
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Tallahassee, Florida 32399-1050