

Going Native Re: Native Advertising

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Native advertisements represent not only an increasingly popular and effective means of promotion for marketers, it also represents a massive headache for the **Federal Trade Commission (“FTC”)**. Native advertising, also known as corporate content or branded journalism, is marketing material that is designed to mimic the look and feel of the host website. While the look of native advertisements differs depending on the host website, the underlying goal for marketers is the same – make the advertisement look and feel like editorial content.

This purposeful “blurring” of advertising and host content increases the risk of deceiving consumers and presents a challenge for the FTC, whose primary duty is to protect consumers from false and misleading advertising. In an effort to fully understand the issues surrounding this new style of digital marketing, the FTC hosted a workshop last December, adeptly entitled “Blurred Lines”. The workshop identified two competing interests the FTC is tasked with balancing, namely transparency for consumers and allowing businesses to enjoy the competitive edge of native advertising. Both the FTC and the non-FTC panelists that represented the business sector agreed that consumers must be able to easily distinguish between editorial content and advertising that attempts to sell them something. It is clearly important to all parties involved to prevent consumer deception – the FTC wants to protect consumers and businesses support the idea of transparency as a means to maintain consumer loyalty and confidence.

However, any call for transparency must be balanced with the business sector’s strong desire to remain competitive in the marketplace. Because native advertisements allow publishers to customize advertising content, it allows businesses to present their products and services in a more palatable and attractive way for consumers. Native advertisements are generally accompanied with labels like “sponsored by”, “posted by”, or “suggested posts”, completely eliminating the word “advertisement”, which consumers generally dislike. Additionally, the ability to customize these advertisements allows businesses to target specific audiences and encourage user participation. Most importantly, native advertisements provide publishers a way to measure consumer responses.

The FTC workshop succeeded in bringing these issues to light, but it remains unclear exactly how the FTC plans to respond to the growth in native advertising. Forbes reports that workshop participants, FTC and non-FTC alike, universally agreed on labeling paid advertisements. The concern and challenge, however, resides in creating a label scheme that alerts consumers to the advertisement, but doesn’t unnecessarily impinge upon a publisher’s ability to manage the look and feel of its content. Also, any future FTC regulations cannot unfairly take away from the competitive advantage

that native advertising offers over traditional forms of advertising. To further complicate the FTC's task is the fact that any future FTC regulation must work for a huge variety of advertisements that significantly differ in content, look, feel, function, etc. depending on the host website.

Participants of the workshop praised the FTC for tackling the issue head-on and attempting to understand the different facets of native advertising. While it is clear that this issue grows in relevance, it is unclear what the FTC will do and when publishers and business can expect an answer, but we'll continue to monitor this area closely.

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