

Advertising Issues in Modern Campaigns



Jeremy Liebman, *Krispy Kreme Doughnuts, Inc.*

Ty Lord and Laura Miller, *Kilpatrick Townsend*

Boring stuff – legal background

Fun stuff – fake case study

Funniest stuff – eating doughnuts

First, the Boring Stuff

What is advertising?

Advertising is:

- Commercial speech
- Made for the purpose of influencing consumers
- Disseminated sufficiently to the relevant purchasing public

What about a salesperson's conversation with a customer?

Advertising Examples

- Catalogs
- Mass emails, or emails distributed as part of a larger advertising campaign
- Claims on packaging
- Packaging inserts
- Leave-behinds
- Presentations
- Statements made by sales people to customers, when conducted as part of a larger campaign
- Tweets
- Social media posts

Who Cares? What's the Risk?



Government

FTC
State AGs
Local



Marketplace

Competitor
Lawsuit
NAD of BBB



Consumer

Plaintiff's Bar
Class Actions
Goodwill

Higher profile → More exposure

Now, the Fun Stuff

The “Product”

Caffeine-Infused Coffee Glazed Doughnut*



*sorry not real

The ASAP Email

Sent: Monday, May 06, 2019 6:21 AM
To: Jeremy Liebman (jliebman@krispykreme.com)
Cc: CEO, COO, General Counsel
Subject: Urgent - Marketing Plan for Coffee Glazed Doughnut

Hi Jeremy – we’re about to launch a new campaign and need your signoff as soon as possible.

As you know, we’ve developed a caffeine-infused coffee glazed doughnut that we plan to launch around end-of-grade testing and we want to go big. We are really excited about this doughnut and will be promoting it as our new signature doughnut. It tastes better than any doughnut out there (other than our Original Glazed doughnut of course!). Also, it is unique since it will boost energy and improve focus, and we have a study that shows that kids who eat these doughnuts for breakfast do 30% better on testing.

We’ve been working with our ad agency and they’ve come up with some great ideas to make a big splash. We’ve been talking to Steph Curry (an NC native!) and the plan is that he’s going to be the face of our doughnuts. He’s also mentioned that Ayesha loves Krispy Kreme doughnuts so maybe we can play that up too.

We’ll want Steph to do some things with the brand. He’ll make and post videos showing how our doughnuts rev him up so he can do amazing things on and off the court. And, he’s going to use Twitter, Instagram, Snapchat and Facebook to talk about Krispy Kreme. We want him to run a photo promotion on Instagram and give away tickets to the 2019 NBA Finals. Not only would it help us raise brand awareness for Krispy Kreme, we would have access to a potential customer base where we could do some targeted, direct marketing.

We’ve also gotten some feedback that Fortnite gamers love these doughnuts and they have been talking about them on Twitch. We are thinking of sending some select gamers doughnut cards and other swag and having them post about our coffee doughnuts. Some will do videos and others will just post on Instagram. Some may ask to get paid, so we’ve set aside a small budget for that.

We’re also putting these doughnuts and gift cards in swag bags at the MTV Video Music awards. We’ll encourage celebrities to tweet about Krispy Kreme and take pictures of celebrities eating them and post them online. The PR department has prepared a story to pitch to various online magazines about caffeine-infused products.

We also thought it might be cool to package these doughnuts in something we’ll call a “REV PAK.” We’re sourcing the packaging from a vendor in China and its biodegradable and environmentally friendly.

Finally, we’re going to give a portion of our sales to organizations that help buy supplies for schools.

Just let us know if there’s anything else you need. We’re launching next week so time is of the essence!

Katie Smith
Marketing

What do you do?

Tell them no. It sounds too risky and we don't have time to fix it.

Cross your fingers and let it roll. We're tired of being the "Department of No" and we don't have the resources to do a fully vetted campaign.

Make sure there's an indemnity in the ad agency agreement. Then say yes.

Begin active campaign to get Katie fired.

Marketing Request

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- As you know, we've developed a caffeine-infused coffee glazed doughnut that we plan to launch around end-of-grade testing and we want to go big. We are really excited about this doughnut and will be promoting it as our **new signature doughnut**. It **tastes better than any doughnut out there** (other than our Original Glazed doughnut of course!). Also, it is unique **since it will boost energy and improve focus, and we have a study that shows that kids who eat these doughnuts for breakfast do 30% better on testing**.

FTC and NAD Guidance

Examples:

- **Former price comparisons:** “[W]here an artificial, inflated price was established for the purpose of enabling the subsequent offer of a large reduction—the “bargain” being advertised is a false one.”
- **“New”:** FTC says six-month limit on the use of the word when advertising the introduction of a “new” product not previously on the market. Product in question must actually be entirely new or “has been changed in a functionally significant and substantial respect.”
- **“Improved”:** Must show substantial and measurable improvement in performance

FTC and NAD Guidance

Examples (cont'd.):

- **“Up to” Savings:** FTC has held that savings claims involving the phrase “up to,” require that “the maximum level of performance claimed can be achieved by an appreciable number of consumers under circumstances normally and expectably encountered by consumers.” NAD has further held that to support an “up to” savings claim an advertiser must offer at least 10% of the inventory included in the offer at the maximum advertised saving.
- **“Free”:** Use of the word “free” includes a requirement, among others, that the “free” item actually is free. When offered with the purchase of another item, the free item should not be paid for by an increase in the regular price of the other item.

Puffery vs. Claim

Puffery

exaggeration, non-specific, hyperbole, not subject to proof

Tastes better than any doughnut out there

Whiter is not possible

World's Best Doughnuts

Claim

Factual assertion verifiable by reason or evidence

Boosts energy

Improves focus

30% better on testing

Puffery Becomes a Claim

“Whiter is not possible”

Clorox Co. v. P&G, 228 F.3d 24 (1st Cir. 2000)

- Standing alone: **PUFFERY**
- In Context: **CLAIM**
 - “Whiter is not possible” slogan used in ad campaign inviting consumers to “COMPARE WITH YOUR DETERGENT”

Literally True – but Still Deceptive

The focus is on consumer's perspective. Look at the *overall net impression* to reasonable consumers – not the literal truth of the ad.

General Mills v. Duncan Hines

- DH claimed chocolate chip muffin mix contained “50% more chocolate chips” than GM
- Statement literally true, but implication was that DH mix had more chocolate, which was not true
- DH mix had more, smaller chips, but GM had more total chocolate



Claim Substantiation

TWO MOST IMPORTANT WORDS

CLAIM:

Statement of fact that
may be
proven/disproven

- ***“Increased metabolism within thirty minutes”***

SUBSTANTIATION:

Proof of truthfulness
of the claim

- ***Written record – copy of factual study***
- ***Must be on hand PRIOR TO PUBLICATION***

Comparative Claims

Unqualified Comparative Claims (superlative): “vs. other leading brands”; “more calcium than other supplements on the market”

Advertisers generally need to test against 85% of the market to make unqualified comparative claims. If the competitive set tested is more narrow than the entire market for a product, advertisers should be sure to limit comparative claims to the specific products that were tested.

Establishment Claims

Establishment Claim Examples

“Tests/studies show that product x outperforms product y”

“Clinically proven to . . .”

Implied:
“allowing seven times more air and sweat vapor to pass through the rain suit”

“*Based on test results” or similar reference to a study

Establishment Claims

Higher Burden on Advertiser for Establishment Claims

- For establishment claims, “the advertiser must possess the amount and type of substantiation the ad actually communicates to consumers”
- Where establishment claim is:
 - **Specific**, advertiser must possess that specific testing/study
 - **Non-specific**, e.g., “medically proven,” advertiser “must possess evidence sufficient to satisfy the relevant scientific community of the claim’s truth.”

Clinically Shown
to improve kids'
Attentiveness **20%**
by nearly...

Kellogg's

Calories	Total Fat	Sodium	Sugars	Fiber	Magnesium
200	1g	5mg	12g	6g	60mg
10%	2%	0%	*	24%	15%

Each 24 biscuit (59g) serving provides these percentages of the GDA based on a 2,000 calorie diet.
See side panel for more information.

FROSTED
Mini-Wheats
Bite Size
LIGHTLY SWEETENED WHOLE GRAIN WHEAT CEREAL

ENLARGED TO SHOW TEXTURE

Serving Suggestion

NET WT. 18 OZ. (1 LB. 2 OZ.) (510g)

-
- AD: Cereal “clinically shown to improve kids’ attentiveness by nearly 20%”
 - Study actually showed:
 - Only half showed any improvement in attentiveness
 - Only 1 in 7 improved by 18% or more
 - Only 1 in 9 improved by 20% or more
 - Kids who ate Frosted Mini-Wheats were compared against kids who ate nothing at all or only had water
 - FTC settlement (April 2009) and \$10.5 million class action settlement (Nov. 2010) (plus \$\$\$ for lawyers in the amount of ???)

Marketing Request

- We've been working with our ad agency and they've come up with some great ideas to make a big splash. We've been talking to Steph Curry (a NC native!) and the plan is that he's going to be the face of our doughnuts. He's also mentioned that Ayesha loves Krispy Kreme doughnuts so maybe we can play that up too.
- We've been working with our **ad agency** and they've come up with some great ideas to make a big splash. We've been talking to **Steph Curry** (an NC native!) and the plan is that he's going to be **the face of our doughnuts**. He's also mentioned that **Ayesha loves Krispy Kreme doughnuts so maybe we can play that up too**.

Agency Agreements

Is there one?

Responsibilities

Key points – ownership, production,
transparency, audit rights

Indemnifications

Monitoring responsibilities



Talent Agreements

Contracting
Parties

Appropriate
Usage

Social Media

Releases

Independent
Contractor

Exclusivity

Morals
Clause

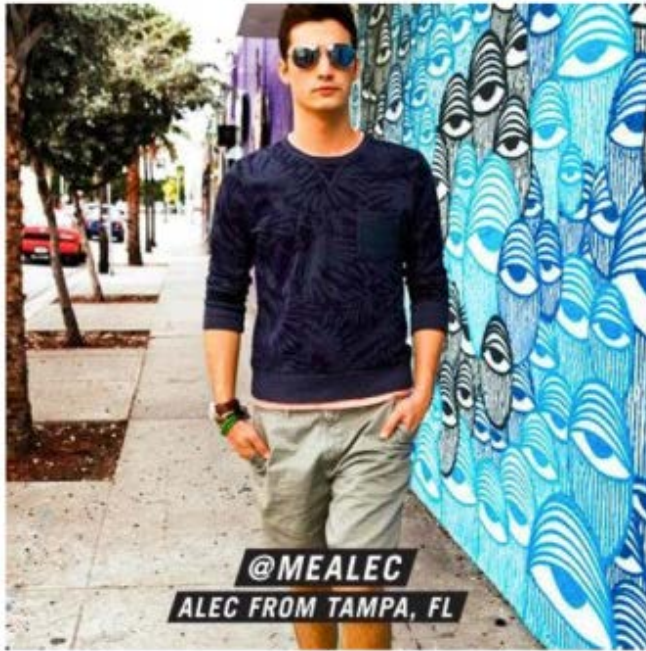
SAG-AFTRA
Issues

Minors – NY
Laws

Marketing Request

- We'll want Steph to do some things with the brand. He'll make and post videos showing how our doughnuts rev him up so he can do amazing things on and off the court. And, he's going to use Twitter, Instagram, Snapchat and Facebook to talk about Krispy Kreme.
- We'll want Steph to do some things with the brand. He'll **make and post videos** showing how our doughnuts rev him up so he **can do amazing things on and off the court**. And, he's going to use **Twitter, Instagram, Snapchat and Facebook to talk about Krispy Kreme**.

Production Concerns



Production Concerns

Talent, Location, Music Releases

Activity Risks

Usage

What is an “**endorsement**”?

An advertising message consumers are **likely** to believe reflects **personal** opinions, beliefs, findings, or experiences of a person or organization **other than** the sponsoring advertiser.

Endorsements

Honesty

- An endorsement must reflect the **honest** opinions, findings, beliefs, or experience of the endorser.

Non-Deceptive

- Ad is deceptive if it contains a statement - or omits information - that:
- Is likely to mislead consumers acting reasonably under the circumstances; and
- Is "material" - that is, important to a consumer's decision to buy or use the product.

Disclose

- Disclose material connections between endorser and advertisers.
- Swag, employee, access

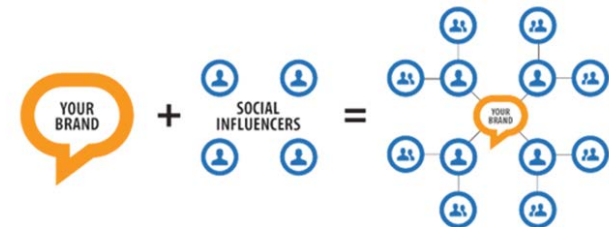
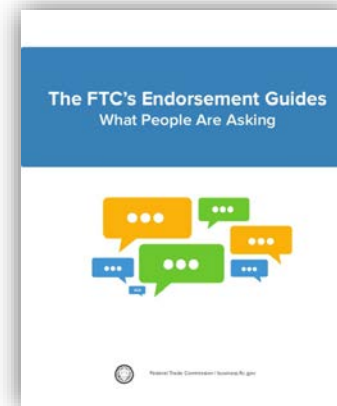
Liability

- Endorsers and advertisers are subject to potential liability.

Endorsements

FTC Endorsement Guides

- “Advertising” includes social media
- Disclose “Material Connections” between advertiser and influencers
- Expanded liability for advertisers and endorsers
- Advertiser obligated to monitor



Solution: Disclosures of Material Connections

- FTC likes #ad
- Can be creative
 - “Proud spokesperson for Brand X”
 - “Thanks, Brand X, for the gift!! #ad, #sponsored”
 - “Check out my new ad campaign with Brand X”
 - Other hashtags: #partner; #sponsored; #ad
- **DO: Be transparent and disclose any material connections between you and your influencers**

Advertiser obligations per the FTC:

- Educate influencers about disclosure requirements
- Educate employees/agents
- Require disclosure by influencers
 - “If you choose to review or share this product please be sure to disclose that it was provided to you by the company.”*
- Monitor disclosures
- Remind and cut off if no compliance

FTC Action

- FTC sent more than 90 letters to prominent Instagram users, reminding them to “clearly and conspicuously disclose their relationships to brands.”
- Said common disclosure tactics—such as including the hashtag #sp or putting a “sponsored” label near the bottom of a post—are not sufficient.
- “[M]any consumers will not understand a disclosure like “#sp,” “Thanks [Brand],” or “#partner” in an Instagram post to mean that the post is sponsored,” said the FTC.
- Influencers should mention a sponsorship deal near the top of a post.

Endorsements



♥ 796,225 likes

kimkardashian #Ad

Remember this? Just want to remind all of you that if you're miserable with #morningsickness like I was, try changing your diet & lifestyle first. If you still feel sick, don't wait-ask your doctor about #Diclegis (doxylamine succinate & pyridoxine HCl), the only

Marketing Request

- We want him to run a photo promotion on Instagram and give away tickets to the 2019 NBA Finals. Not only would it help us raise brand awareness for Krispy Kreme, we would have access to a potential customer base where we could do some targeted, direct marketing.
- We want him to run a **photo promotion** on Instagram and give away tickets to the **2019 NBA Finals**. Not only would it **get us great photos** and help us raise brand awareness for Krispy Kreme, we would have **access to a potential customer base** where we could do some targeted, direct marketing.

Sweepstakes, Contests, Giveaways

Sweepstakes vs. Illegal Lottery → eliminate one of the following

- Prize
- Chance
- Consideration

Official Rules

Florida & New York

- Over \$5000, with bond
- Advance filing deadlines (Florida: 7 days; New York: 30 days)

Rhode Island

- Retail promotions only
- Over \$500, bond but no advance filing

Promotions on Social Media

Sweepstakes or contest?

User generated content? Selfie promotion?

FTC Testimonial and Endorsement Guidelines: Receipt of a sweepstakes entry in exchange for product endorsement is a material connection that must be disclosed

FTC Dot Com Disclosures: Space constraints are no excuse, proximity, scrolling, mobile compliant, timing

- #contest; #sweepstakes; #giveaway

Follow the platforms' ever-changing rules.

Sweepstakes and Endorsements

- FTC: “Pin” = Endorsement

 **Jennifer Chong**
@jchongstudio Follow

win a \$1,000 shopping spree from @colehaan ! share where your sole's are going to wander – pinterest.com/ColeHaan/wande...

11:47 AM - 26 May 2013

Wandering Sole
Beautiful cities, hidden gems, must-see spots.

 **Pinterest** @Pinterest



5 RETWEETS 1 FAVORITE   

What can
we do with
the
images?

- Typically broad release language in Official Rules
- Do entrants understand?
- Even if you can, should you?
- Reasonable expectations

Privacy Issues in Sweepstakes

Official Rules Privacy Statements

- **Suggested DON'T:** Make statements about how entrant data/PII will be treated. E.g.:
 - Sponsor will collect information from Entrant solely for the purpose of administering the Sweepstakes and prize fulfillment.
 - Sponsor will not share this information with any third parties, except as necessary for the administration of the Sweepstakes.
 - Sponsor's use of information submitted by Entrants will be subject to the terms and conditions stated in these Official Rules as well as to the Sponsor's Privacy Policy available at www.____.com/privacy.
 - To the extent of any conflict between these Official Rules and the Sponsor's Privacy Policy, these Official Rules shall govern.
- **Suggested DO:**
 - Information submitted by Entrants will be treated in accordance with Sponsor's Privacy Policy available at www.____.com/privacy.

Running promotions on social media platforms:

- Will company collect data / pull data into its own databases?
- If collecting data to build a database for direct marketing:
 - Do consumers know of data collection?
 - Does this conform to the platform's API rules on data collection?
 - If using a mobile app for entries and collect data – disclosures?

Third Party Trademark Use & Ticket Giveaways

- **Third Party Trademark Use:** Use of another party's trademark should be minimal, if at all, and should only be used to accurately describe the brand name of the prize in the Official Rules.
- **Ticket Giveaways:** Generally not permitted by the sponsor of the event.
 - A form of ambush marketing

Marketing Request

- We've also gotten some feedback that Fortnite gamers love these doughnuts and they have been talking about them on Twitch. We are thinking of sending some select gamers doughnut cards and other swag and having them post about our coffee doughnuts. Some will do videos and others will just post on Instagram. Some may ask to get paid, so we've set aside a small budget for that.
- We've also gotten some feedback that Fortnite gamers love these doughnuts and they have been talking about them on Twitch. We are **thinking of sending some select gamers doughnut cards and other swag and having them post about our coffee doughnuts. Some will do videos and others will just post on Instagram.** Some may ask to get paid, so we've set aside a small budget for that.

Use of “Fortnite”

Brand Risks

Endorsements and Ambassadors?

- How do you exercise control if needed?

Marketing Request

- We're also putting these doughnuts and gift cards in swag bags at the MTV Video Music awards. We'll encourage celebrities to tweet about Krispy Kreme and take pictures of celebrities eating them and post them online.
- We're also putting these doughnuts and gift cards in swag bags at the MTV Video Music awards. We'll encourage celebrities to tweet about Krispy Kreme **and take pictures of celebrities eating them and post them online.**

- **Consent Required!!!**

Hollywood^{THE}
REPORTER MOVIES ▾ TV ▾ MUSIC ▾ TECH ▾ THE BUSINESS ▾ S

Hollywood, Esq. the intersection of entertainm

POWER LAWYERS | POWER BUSINESS MANAGERS | TOP ENTERTAINMENT LAW SCHOOLS


POSTED
JUN 26
5 MOS

Halle Berry Lawsuit: Any Such Thing as a Free Celebrity Gift?

9:48 AM PDT 6/26/2014 by Eriq Gardner

[f](#) 6 [t](#) 33 [+](#) 0 [in](#) 0 [v](#) 0 [Email](#) [Print](#) [Comments \(4\)](#)

A watchmaker suggests that celebrities likely consent to use of their images when accepting merchandise from those connected to marketing agencies.



A lawsuit brought by **Halle Berry** is now wading into the topic of celebrities being gifted luxury items. Surely, most people would love to get their hands on designer clothing, expensive electronics and other goods for no cost, but maybe such things are not free after all.

The *Extant* star is suing an Italian company called Toywatch S.p.A. and its brand agents. Berry contends that the defendants have violated her publicity and privacy rights, trademark and slogan by using her name and image to advertise and sell watches. The

Right of Publicity



The \$6 million dollar tweet?

Right of Publicity

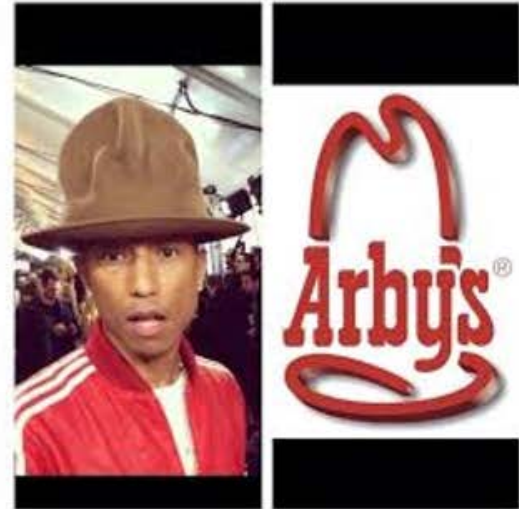
A screenshot of a Twitter thread. The top tweet is from Arby's (@Arbys) dated Jan 26, asking Pharrell Williams for his hat back. The bottom tweet is from Pharrell Williams (@Pharrell) dated Jan 27, replying with a roast. The tweet shows 16,988 retweets and 14,195 favorites.

Arby's @Arbys Jan 26
Hey @Pharrell, can we have our hat back? #GRAMMYS
Expand Reply Retweet Favorite More

Pharrell Williams @Pharrell Jan 27
Y'all tryna start a roast beef? 😏 " @Arbys: Hey @Pharrell, can we have our hat back? #GRAMMYS"
Retweeted by Arby's
Hide conversation Reply Retweet Favorite More

16,988 RETWEETS 14,195 FAVORITES

1:23 AM - 27 Jan 2014 - Details



Right of Publicity



- Cease and Desist Letter
- June 2014 Lawsuit in California seeking treble damages

Right of Publicity



“As one of the most recognizable athletes in the world, James is selective with whom he chooses to publicly endorse. Vardon spoke to a source close to the four-time NBA MVP who said James would typically command at least \$2 million for something similar to Great Lakes' tweet.” – BleacherReport.com

Marketing Request

- The PR department has prepared a story to pitch to various online magazines about caffeine-infused products.
- The PR department has prepared **a story** to pitch to various online magazines about **caffeine-infused products**.

Native Advertising

Use of online paid advertising content presented in a form that matches the context of the user experience in which it is placed.

December 2015: FTC issues Native Advertising Guidelines


- <https://www.ftc.gov/tips-advice/business-center/guidance/native-advertising-guide-businesses>

Concerns about misleading consumers → Must clearly and conspicuously designate content as advertising.


Native Advertising

- Examples:
 - Fitness Life, an online health and fitness magazine, features articles about exercise, training advice, and product reviews. An article on Fitness Life's main page is titled "The 20 Most Beautiful Places to Vacation." The article displays images in a scrolling carousel of beautiful spots for fitness enthusiasts to visit. The Winged Mercury Company paid Fitness Life to create this article and publish it on Fitness Life's site. The article says it is "Presented By" Winged Mercury and includes an image of the company's logo. Although Winged Mercury's sponsorship of the article is a form of advertising, the article itself is not, as it does not promote any of Winged Mercury's products. It only contains images of places where readers – including potential Winged Mercury customers – might like to visit. Thus, the article does not need to be identifiable as an ad before or after consumers click into it.


Native Advertising



A History of Race and Racism in 24 Chapters
A decade-by-decade history of race and racism in America, compiled by a National Book Award Winner.



John Legend Can't Say Times Are Normal
The singer and actor on the "La La Land" controversy, forms of resistance and playing the role of Frederick Douglass.



Maria Callas, From Reality to Runway
One of Italian fashion's most enduring icons is having a moment, almost 40 years after her death.

but when a former scientist took to an obscure blog to **accuse his former boss of mishandling data**, he ignited a furor over climate change.

21h **The Waldorf Astoria hotel** in Manhattan will close indefinitely for renovations next month. The salad that bears its name will live on as a staple of American menus.

1d **Junie Morrison**, who was the architect of hits by two pre-eminent 1970s funk outfits and who had a prolific career of his own, has died. He was believed to be 62.

[Send Feedback](#)

FROM OUR ADVERTISERS



TIFFANY & CO.
Hacking the Art World
How art has adapted to the internet.



ADOBE
Shopping Goes Virtual
Virtual reality will change how you shop.



ROYAL CARIBBEAN
Vacation Off the Beaten Path
Bobsled and jump waterfalls on your next Caribbean



VANGUARD
Where Do You Stack Up?
Discover if your peers are already saving for retirement.



ADP
Creating a Stronger Workforce
The work of this anthropologist can affect US

METHODS HOME SEARCH

The New York Times

ENRITOR AND PUBLISHED BY

Adobe

LOG IN

RETAIL'S TECH REVOLUTION

Robots that pick out your outfits and other digital technology will transform the shopping experience

The Atlantic Sponsor Content: What's this? **xerox**

Working Better

BITE-SIZED IDEAS AND WISDOM
TO HELP BUSINESSES BECOME MORE
ALIGNED, PRODUCTIVE, AND AGILE.

EXPLORE →

Turn Your Employees
The Perfect Feedback Machine
Centralized to a Role
Peer-to-Peer

Native Advertising

- A kitchen cabinet company paid an online lifestyle magazine, Styling Home, to create and publish an article entitled, “10 Must-Haves for a Great Kitchen.” The article, which displays a series of images depicting well-designed kitchens, appears in the same layout as other articles on the Styling Home site. Most of the images in the article depict and promote the sponsoring advertiser’s products. Thus, the article is an advertisement. The ad’s format, however, is likely to mislead consumers to believe it is an ordinary Styling Home article and reflects the independent views of the Styling Home writer, and not those of the sponsoring advertiser. Therefore, a clear and prominent disclosure of the article’s commercial nature is necessary.

Native Advertising

Disclosures must be:

- in clear and unambiguous language;
- as close as possible to the native ads to which they relate;
- in a font and color that's easy to read;
- in a shade that stands out against the background;
- for video ads, on the screen long enough to be noticed, read, and understood; and
- for audio disclosures, read at a cadence that's easy for consumers to follow and in words consumers will understand

Marketing Request

- We also thought it might be cool to package these doughnuts in something we'll call a "REV PAK." We're sourcing the packaging from a vendor in China and its biodegradable and environmentally friendly.
- We also thought it might be cool to package these doughnuts in something we'll call a "**REV PAK.**" We're sourcing the packaging from a vendor in China and its **biodegradable and environmentally friendly.**

Trademark Clearance

- Latent trademark issues in promotions
 - Clearance is still important



Environmental Claims



Environmental Claims

FTC “Green Guides”

- **General Environmental Benefit Claims**

- Per the FTC, marketers should not make broad, unqualified general environmental benefit claims like “green” or “eco-friendly.” Broad claims are difficult to substantiate, if not impossible.
- Claiming “Green, made with recycled content” may be deceptive if the environmental costs of using recycled content outweigh the environmental benefits of using it.
- Also watch out for imagery that suggests an environmental claim.

Environmental Claims

- **Biodegradability:** Marketers may make an unqualified degradable claim only if they can prove the “entire product or package will completely break down and return to nature, . . . within a reasonably short period of time after customary disposal.” The “reasonably short period of time” for complete decomposition of solid waste products? One year.
 - “Customary disposal” is the problem. Items destined for landfills, incinerators, or recycling facilities will not degrade within a year, so unqualified biodegradable claims for them shouldn’t be made.
 - If able to substantiate claims regarding biodegradability under particular circumstances, a prominent disclaimer regarding such circumstances may be warranted.

Marketing Request

- Finally, we're going to give a portion of our sales to organizations that help buy supplies for schools.
- Finally, we're **going to give a portion of our sales** to organizations that help buy supplies for schools.

Cause Marketing: Commercial Co-Venturing

Commercial Co-venturer: one regularly and primarily engaged in commerce (other than in connection with raising charitable funds) who conducts a charitable sales promotion

State Regulation – about 6 states

Contract Requirements

Bonding, Registration and Reporting Requirements

Cause Marketing: Commercial Co-Venturing

- New York Best Practices:

http://www.charitiesnys.com/cause_marketing.jsp#best

1. Clearly describe the promotion, including any minimums or maximum donations.
 2. Allow consumers to easily determine the donation amount.
 3. Be transparent about what is not apparent.
 4. Ensure transparency in social media.
 5. Tell the public how much was raised.
- Specificity and Logistics – what portion? other means?
 - Simpler Solution? Flat donation and license agreement

Questions?



Finally, the Funnest.

ANCHORAGE
ATLANTA
AUGUSTA
BEIJING
CHARLOTTE
DALLAS
DENVER
HOUSTON
LOS ANGELES
NEW YORK
RALEIGH
SAN DIEGO
SAN FRANCISCO
SEATTLE
SHANGHAI
SILICON VALLEY
STOCKHOLM
TOKYO
WALNUT CREEK
WASHINGTON D.C.
WINSTON-SALEM



Ty Lord
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404-745-2597

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