

Social and Mobile and Law, Oh My!

Legal Implications of Social Media and Mobile Technology



Presented by

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Partner, Reed **Smith** LLP

AHAA Annual Conference

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ahaa
the voice of hispanic marketing
ReedSmith

The business of relationships.

Our Agenda: So Much to Cover, So Little Time

- Basics
- Implications of Social Media and Mobile Technology
- Proprietary Rights
- Privacy and Security
- 30 Second Hot Spots
 - Native Advertising
 - Rebates and AVBs
 - Programmatic Advertising
 - Bot Fraud
- Putting it All Together
- Lessons Learned
- Questions



The Regulatory Landscape

- Federal



NIST



- State



- Self Regulation



Fall 2014, over 60 advertisers sent warning letters

- Adequate disclosure requirements still apply
- FTC's re-education on basic advertising principles:
 - Failure to disclose material terms so that omission makes the net impression misleading constitutes deception under Section 5 of the FTC Act
 - Disclosure must be made reasonably calculated to ensure they are noticed, read and understood

Advertising law is designed to protect the consumer, not the advertiser.

Deceptive or unfair acts or practices are unlawful. That means:

- Not Deceptive
- Claims Substantiated (in advance)
- Not Unfair
- Puffery Can Be OK !

- EXPRESS (lying)
 - IMPLIED
 - OMISSION
- NET IMPRESSION

Deception by Implication



Even if truthful, ads can be deceptive if material information isn't disclosed.

4 **OUT** **OF** **5**
PEDIATRICIANS*
RECOMMEND
Gerber®

*A 1994 CONTEMPORARY PEDIATRICS RECOMMENDATION STUDY FOUND THAT 88% OF PEDIATRICIANS WHO RECOMMEND BABY FOOD RECOMMEND GERBER.

60 436

Overall (Net) Impression



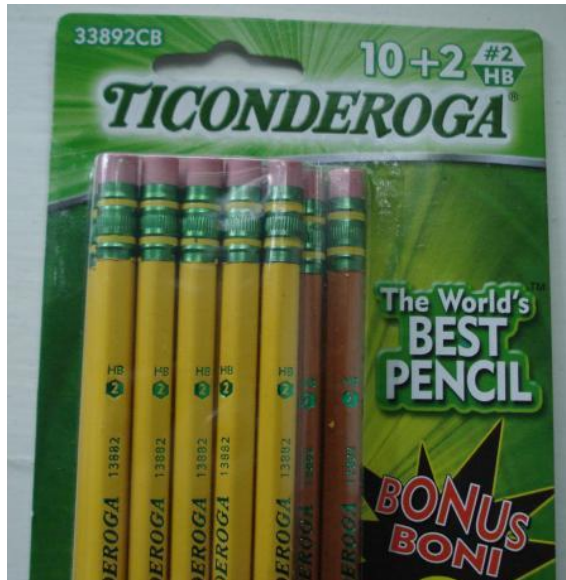
Substantiation Is Not Required

Opinions, exaggerations, hyperbole or claims that:

- Cannot be proven or disproved
- or
- No reasonable person would believe (or consider material)

***Advertiser's right to lie,
since no reasonable (rational) person will believe it***

Examples of Puffery?



Probably

- What does “world’s best pencil” mean?
- Different, equally correct, opinions possible
- Difficult or impossible to prove



Probably not

Overall context defines meaning

- “#1 in volume sales”
- “#1 in brand awareness”
- “#1 in household penetration”

I Thought You Can't Lie ?



Disclaimers Done Right...

- Clear link between claim and disclosure
- “Disclosure” explains, doesn’t contradict
- Disclosure is readable by consumers (not in mice type, buried in 80 pages of legalese, blah, blah, blah, in difficult to read type color and **font**,



or located far from the claim it explains)

- Injures consumers
- Violates established public policy
- Unethical or unscrupulous

Examples:

Forcing consumers to buy unwanted goods;

Selling consumers defective goods on an “as is” basis;

Locking consumers in expensive, long-term contracts

- Wake-up call across all media



- Reminder for advertisers to evaluate whether advertising achieves adequate disclosure
- Increased scrutiny over Hispanic advertising, where there hasn't been much enforcement

The emergence and convergence of innovative digital technology

Social Media

Mobile Platforms

continues to challenge our legal and regulatory systems. Confusion and uncertainty creep into every aspect of law and regulation, while the enabling effects of technology fundamentally shift the balance of rights, responsibilities and power!

“...activities, practices and behaviors among communities of people who gather online to share information, knowledge, and opinions using conversational media.”

**WHY SHOULD YOU CARE?
BECAUSE SOCIAL MEDIA IS A
FORCE
TO BE RECKONED WITH !**

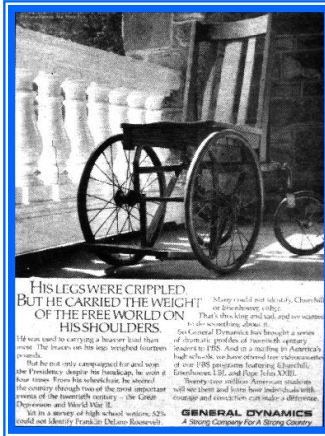
The Rise of Mobile



Proprietary Rights

Proprietary Rights Are Changing

Copyright



Distinctive
Voice



Rights of Publicity



Trademarks

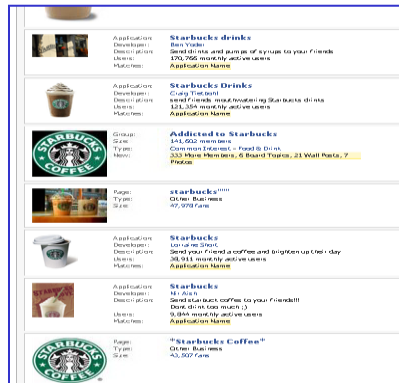
Trademark vs Reputation Management



The Official Starbucks page has over 35 million people who said “Like”

and

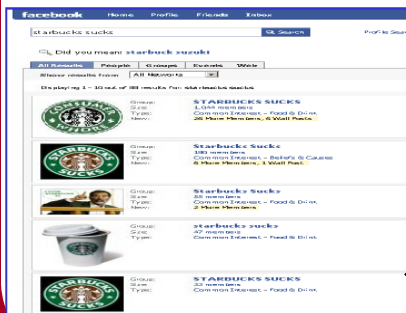
there are thousands of ‘unofficial’ pages put up by Starbucks’ fans, local Starbucks’ locations and loyal employees. NONE licensed by Starbucks to use the brand . . .



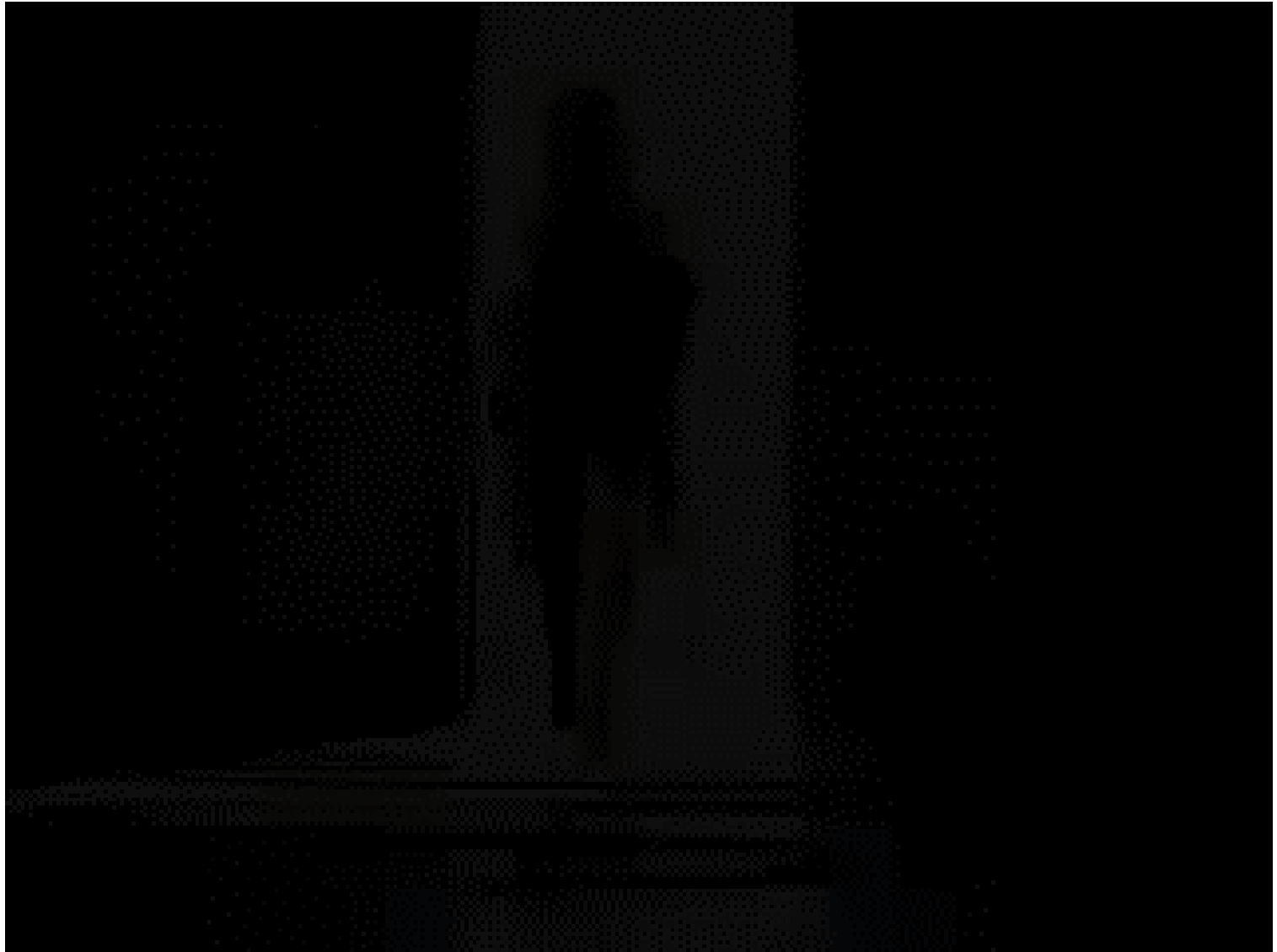
but

even if you risk allowing people who  you,

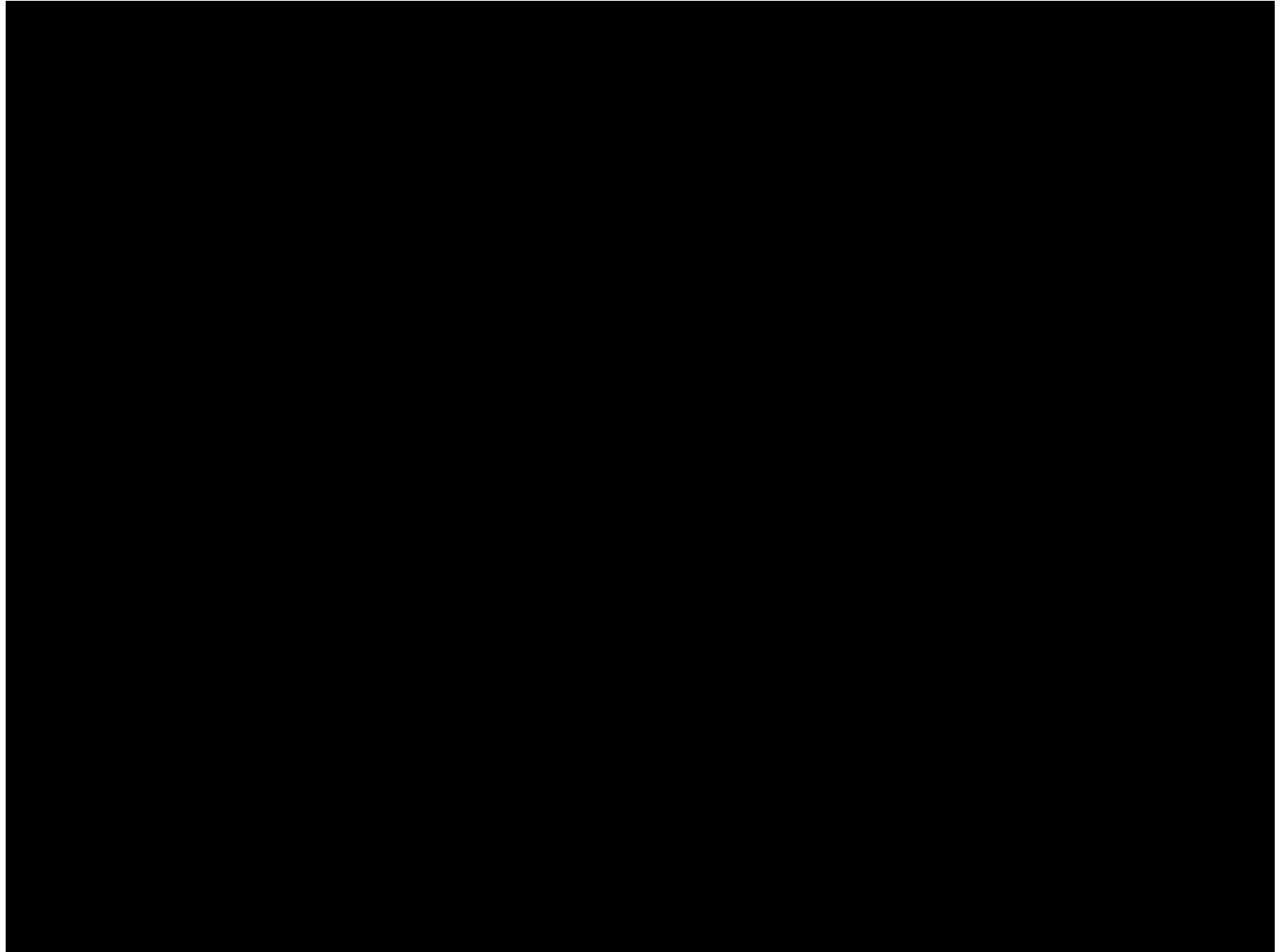
what do you do about THESE people ??



Copyright vs Licensing



Infringement? Fair Use? Parody?



What is prohibited?

- Use of a name, likeness, persona, image or voice
- Without permission
- For commercial purposes

What's the risk?

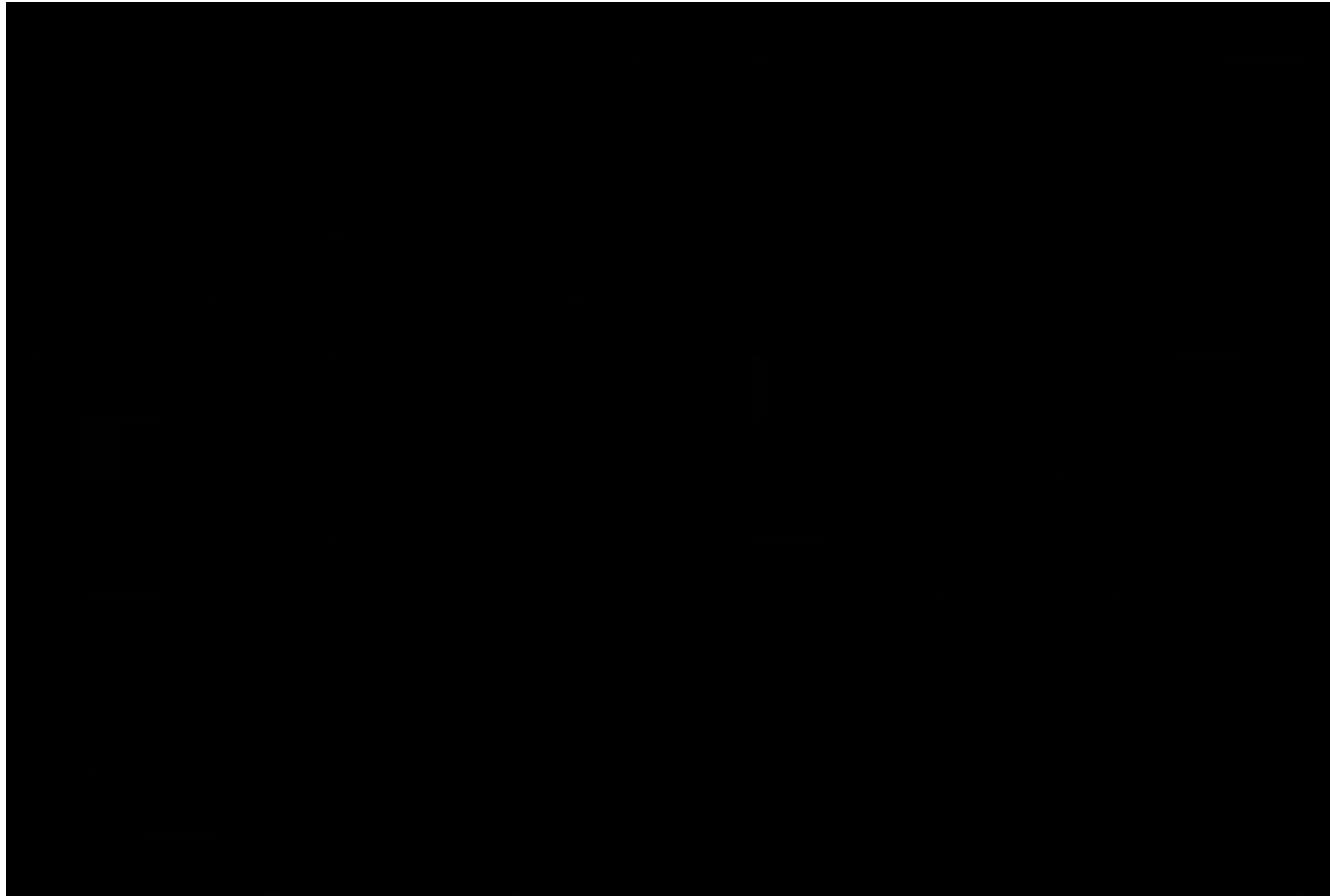
- Celebrities are litigious
- Case law inconsistent; most settle out of court

 **HOW LONG
DO YOU WANT TO
WAIT TO BECOME
THE BOSS?**

www.jobsite.co.uk The fast way to a better job.



Signed a Talent Release ?



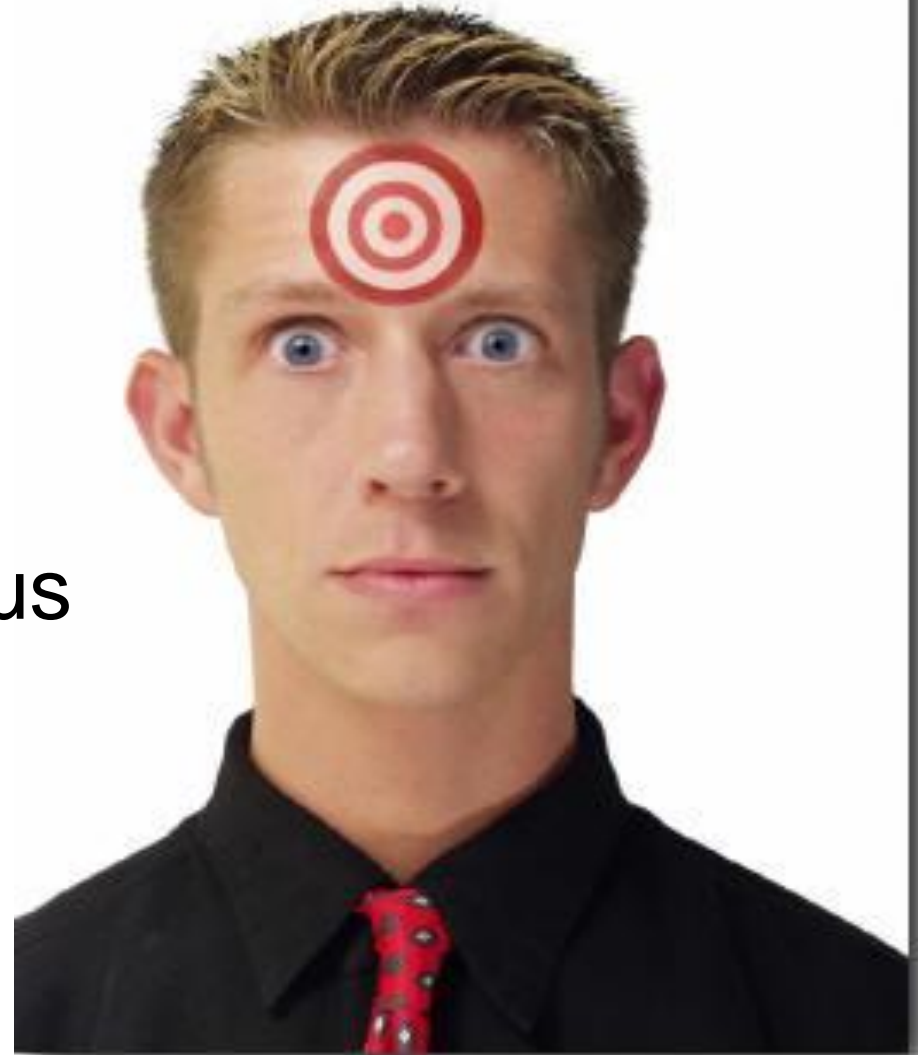
Privacy & Data Protection

Magnify Privacy Concerns

- User Search & Input
- Geo Targeting – Location, Location, Location
 - Coupling Location with Context
 - Coupling Location with Behavior
- Location Sharing
 - Among Users
 - Among Devices
 - Among Social Networks
- Surveillance Capabilities

Can Target Individuals

- Age
- Preferences
- Gender
- Relationship Status
- Activities
- Location
- and more



Geo-Location Apps Collect Even More

Gaming

foursquare®

Gowalla

scvngr

myTOWN

whrrl

Deals



checkpoints

shopkick™

loopt®

Search & Community

brightkite

yelp® buzzd®

Where®

GetGlue



‘Checking in’ motivated by value exchange

Digital Mobile Technology and Social Media Shifts Social Expectations

We traditionally (“normally”) assume our conversations are private and made public only when one or more of the participants takes some affirmative action.



But, in the online and mobile environments, conversations are generally public by default and you have to work to make them private.

Want to stop this
from happening?

Take Action!

Replay the movie?



Privacy is Paradoxical

People **SAY** they cherish privacy and are anxious about unauthorized disclosure or use of their personal information:

But they often **ACT** in ways that allow, even encourage, others to monitor and track them, know their preferences, where they are and what they are doing;

and in their daily life often

disclose information virtually indiscriminately

to strangers, both individuals and businesses

MOST PEOPLE AREN'T SURE IF ANY ACTUAL HARM HAS OCCURRED

IN FACT, most people are disturbed if they search for themselves and don't find much. They rarely change their privacy settings and almost always search for information about people they plan to meet

If I search for you on Google and don't find you . . .



Scientists found bragging and boasting feels rewarding at the level of brain cells and synapses. **“Talking about ourselves--whether in a personal conversation or through social media sites like Facebook and Twitter--triggers the same sensation of pleasure in the brain as food or money.”**

National Academy of Sciences, reported in The Wall Street Journal, D1; Science Reveals Why We Brag So Much, May 8, 2012, Robert Lee Hotz.

- 47 States (and D.C.) have data breach notification laws if “personal information” is breached:
 - Name + Social Security Number
 - Name + Driver’s license number or State ID card number
 - Name + Financial, credit or debit card account number in combination with the security or access code
- Currently 20 states also include:
 - Medical and health insurance information
 - Unique biometric data (e.g., fingerprint, voiceprint, retina or iris images) covered;
 - Mother’s maiden name
- Handful of states require specific content be included in the notice and some have defined deadlines for notice

- **Transparency:** Regulators are concerned that consumers do not understand the advertising and data-broker relationship (*i.e.*, how tracking is used on websites and on mobile apps).
- **Restrictions on Data Brokers:** Focus on the use of the data collected, not just collecting and storing indefinitely.

The FTC will be vigilant and will use Section 5 of the FTC Act to enforce its regulations.

What Must You Do?

- Monitor Data Breach Laws
- Be Transparent
- Understand Third Party Practices
- Disclose Practices
- Keep Your Promises
- Appreciate that Prevention is Key
- Have a Crisis Management Plan & Team



30 Second Hot Spots

Native Advertising
Rebates and ABVs
Programmatic Advertising
Bot Fraud



2015 ANA Survey Report

ADVERTISING IS GOING
NATIVE



ANA surveys are based on topics identified by the ANA and its membership as critical issues and emerging trends that nearly all marketers face today.



Native advertising is a method by which an advertiser gets a consumer's attention by providing messaging in the context of the user's experience

- ✓ Subset of content marketing (paid, owned, and earned media).
- ✓ Make paid advertising feel less intrusive
- ✓ Increase likelihood of user engagement
- ✓ Focus on paid, not (yet) owned or earned, media

ANA Study:

- $\frac{3}{4}$ of all respondents feel there is an ethical boundary for the advertising industry when engaging in native advertising

FTC's Operation Full Disclosure Warning Shot

- Disclosure and ethics are key issues:
- Review paid media that involves product placement or brand identification
- Monitor public relations
- Determine if absent disclosure, a consumer may believe there is an independent endorsement

ANA/Reed Smith

Media Rebates/Incentives Require Full Transparency

The industry practice of media companies providing rebates/incentives to agencies for referring or influencing client spending towards that media company, and then the agencies not reimbursing those funds to the client, has long been acknowledged as a common practice outside the United States. However, a recent ANA/Reed Smith survey confirms that this practice also exists in the U.S. Details and implications for advertisers follow.

Background

From late May to mid-June 2012, ANA members were surveyed to uncover:

- Awareness among advertisers of media companies providing incentives to agencies for referring client spending towards that media company.
- The specific media involved.
- Whether clients have language in their media agency contracts that addresses incentives.
- Whether clients conduct periodic audits to ensure that undisclosed rebate/incentive activity is not occurring with their agency.

One hundred eighty-eight members responded to the survey.

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WFA advice on obtaining transparency and return of media income

In association with:
Anteus Consulting Ltd



Monies/inventory agencies receive from media suppliers not directly related to individual client spend

Payments or value generally based on overall agency spend, not based on any individual client spend

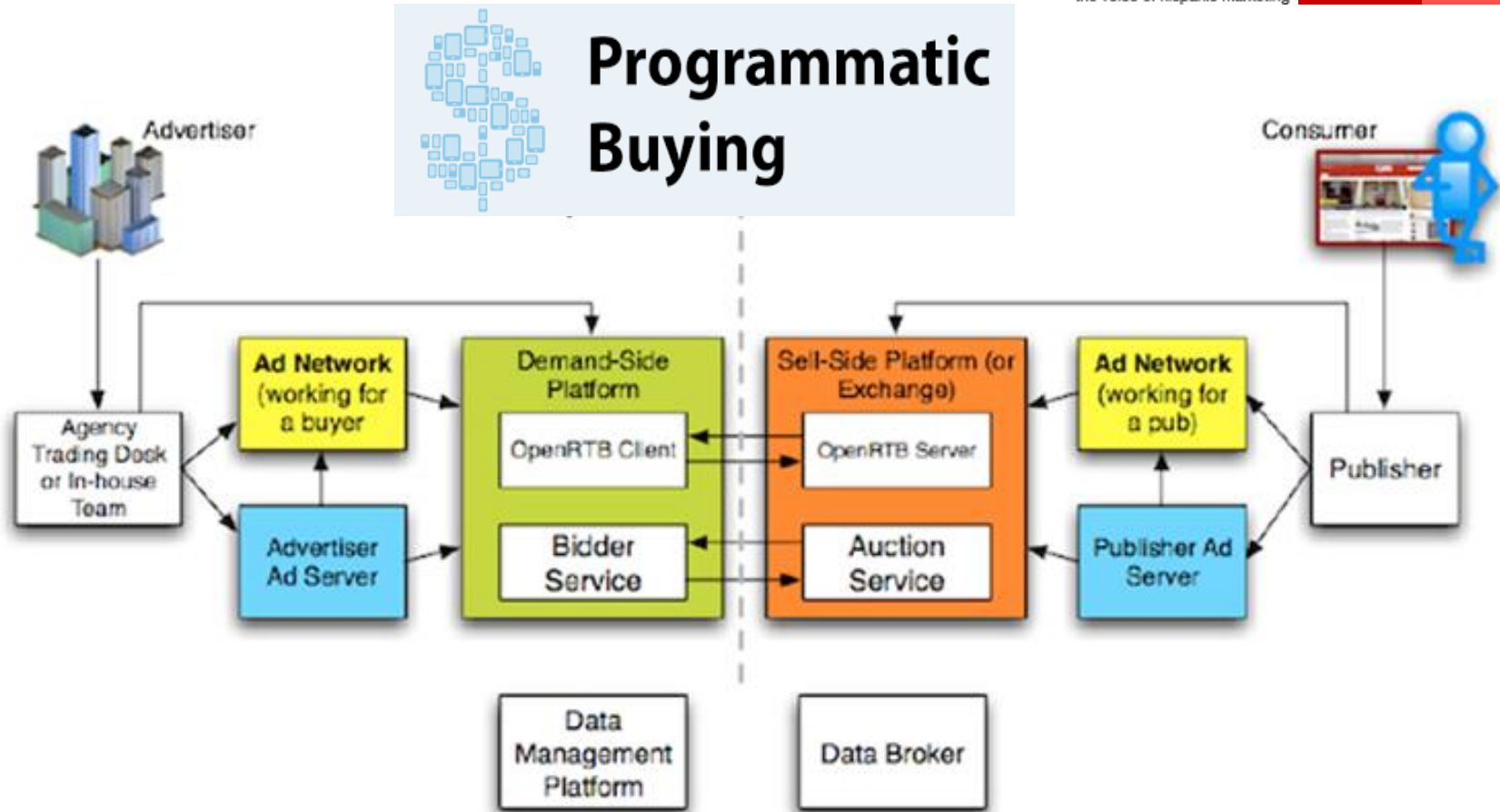
- May be contingent on incremental growth, share and/or payment terms
- May range from < 1% to > 15%

Advertiser spend builds the agency's negotiating power but there is no established "currency" for measuring consumer engagement in digital advertising and advertisers are increasingly concerned benefits don't always flow back, so you should

expect agencies to increasingly be asked to certify there are no undisclosed rebates or AVB's, so you should . . .

- Have clear mechanisms for tracking and reporting
- Clearly memorialize standards in contract
- Communicate terms internally to ensure compliance

Programmatic Buying



Only 23% of marketers say they understand it and have used it
41% have either never heard the term or have heard it, but don't know what it is

Source: *Forrester/ANA "Media Buying's Evolution Challenges Marketers," 2014*

Automated buying, selling and placement of online advertising

Done by machines in real-time, instantly

Based on algorithms and technology

So marketers can deliver a hyper-targeted advertising at the right time

Subset of online behavioral advertising using automated exchanges, drawing upon vast amounts of data and analytics

Relies on cookies and other tracking technologies to create profiles based on technical and behavioral data

Audits of media buying companies are likely to increasingly focus attention on programmatic buying controls, so you should . . .

- Understand the technology
- Review and consistently update privacy policies
- Adhere to privacy policies
- Track the law and press
- Identify and implement controls

FTC has been attentive to the programmatic ecosystem for years

FTC *Self-Regulatory Principles for Online Behavioral Advertising* in 2009; FTC Privacy Report (2012); FTC “*Data Brokers: A Call for Transparency and Accountability*” (May 2014)

The FTC has called out the practice of buying lists from brokers for tailoring campaigns and cautioned advertisers against using lists to target based on health, ethnicity, or financial status and has:

- Adopted a lower harm standard when a company’s practices “unexpectedly reveal previously private information even absent physical or financial harm, or unwarranted intrusions”
- Expanded scope of covered information to extend privacy protections to all “consumer data that can be reasonably linked to a specific consumer, computer, or other device”
- Initiated enforcement actions and in recent consent decrees uses the term “covered information”, which includes IP addresses, User IDs, persistent identifiers, physical location, as well as any information combined with personally identifiable information (PII).

Bot Fraud: Non-Human Traffic

Bots — computer-generated signals designed to mimic human web traffic in order to trick advertisers to pay for phony non-consumer visits to websites

**4A'S AND ANA JOIN IAB IN LAUNCHING
CROSS-INDUSTRY COMPLIANCE
ORGANIZATION TO COMBAT
AD FRAUD, MALWARE, & PIRACY**



**The Bot Baseline:
Fraud in Digital
Advertising**

White Ops, Inc.
Association of National Advertisers

whiteops
ANA

DECEMBER 2014

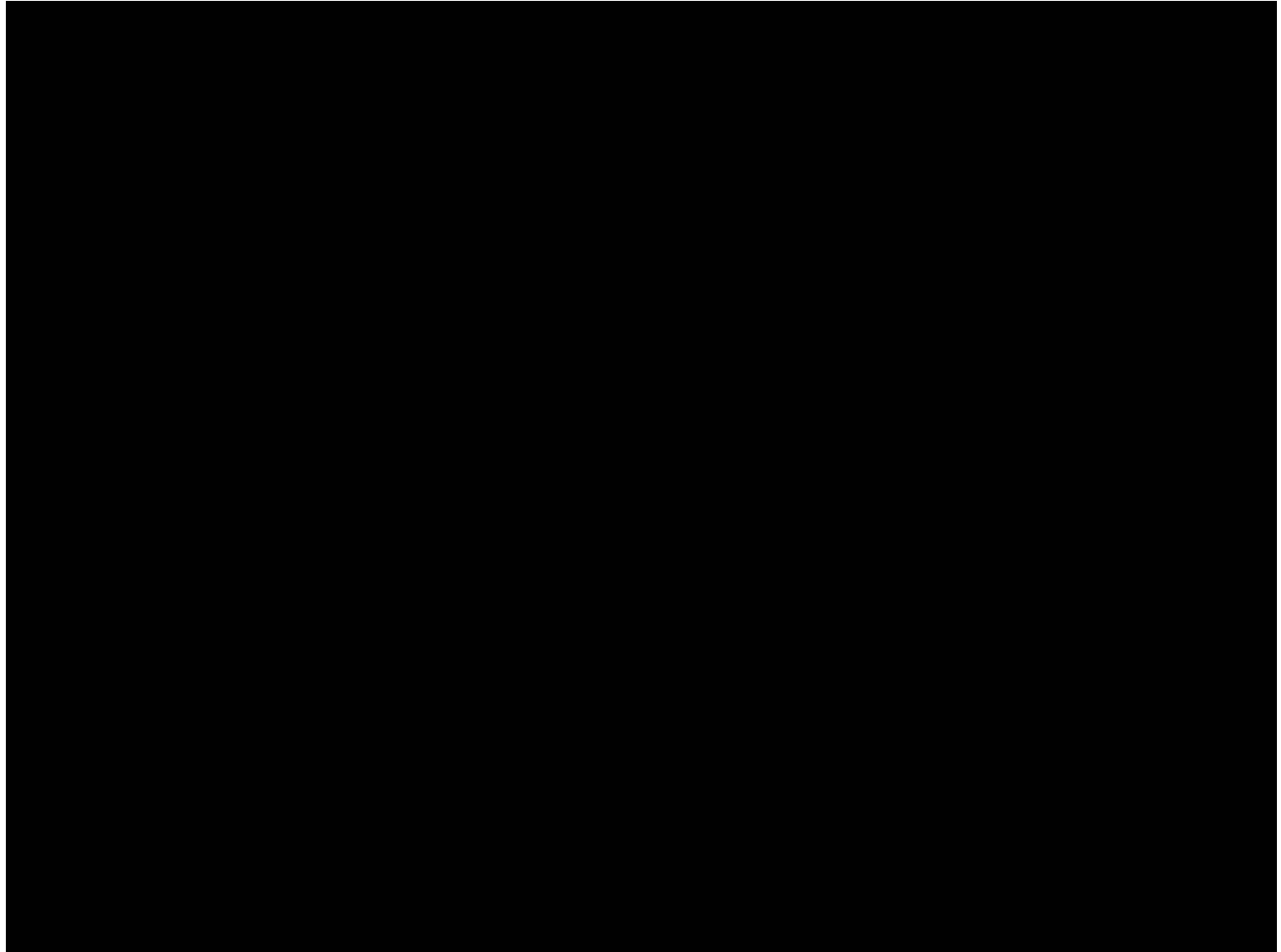
The recent ANA study revealed that almost a 25% of video ad impressions and more than 50% of third party sourced traffic is non-human. Bot fraud levels vary and seem to peak when users are sleeping, but their computers are up. Bots find their way onto premium content sites and they are difficult to track because they are not evenly or predictably distributed. So you should . . .

- Expect to see more audits of media buys with specific attention to non-human traffic
- Expect to see more contract language pushing liability back to the media buying company

Putting it All Together

What is an 'ad' these days ?

We Never Talk Anymore



Advertising is Now a Conversation

CONSUMERS ARE CONTENT CREATORS AND POWERFUL INFLUENCERS
MEDIA / ENTERTAINMENT COMPANIES ARE AD SUPPORTED REVENUE ENGINES

TECHNOLOGY AND SEARCH COMPANIES ARE NETWORK PUBLISHERS
TELECOMMUNICATIONS AND GAMING COMPANIES DISTRIBUTION PLATFORMS

**DISTINCTIONS BETWEEN CONSUMERS, CONTENT
PRODUCERS AND ADVERTISERS ARE BLURRING AS A
RESULT OF SOCIAL MEDIA, USER GENERATED CONTENT,
MOBILE AND CLOUD COMPUTING TECHNOLOGY**

**DISTINCTIONS BETWEEN ADVERTISING,
INFORMATION AND ENTERTAINMENT
ARE BLURRING**

Your Makeover

HOLLYWOOD'S **SEXIEST** NEW HAIRSTYLES

InStyle

HELLO,
Gorgeous!



**FIND YOUR
Perfect
Hairstyle**

**PLUS,
how to
make
your blowouts last**



Size



Rotate

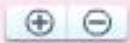


Flip



RESET

CLEAR



Zoom

SHOW

HIDE

RE-TRACE

Photo Background

Select a Star Style

Select

ALL STYLES



Anne Hathaway



Ashanti



Beyonce Knowles



Cameron Diaz



Carrie Underwood



Eva Longoria



» More fun sites at **EverythingGirl.com**™

PRIVACY POLICY

Polly Pocket Teen Trends Pixel Chix Barbie




It's your world!
BarbieGirls.com™

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AD

Barbie.com™

Hi, Barbie® Girl!

Parents | Collector | Global Barbie® | Shop with Barbie®



Online In-Game Advertising





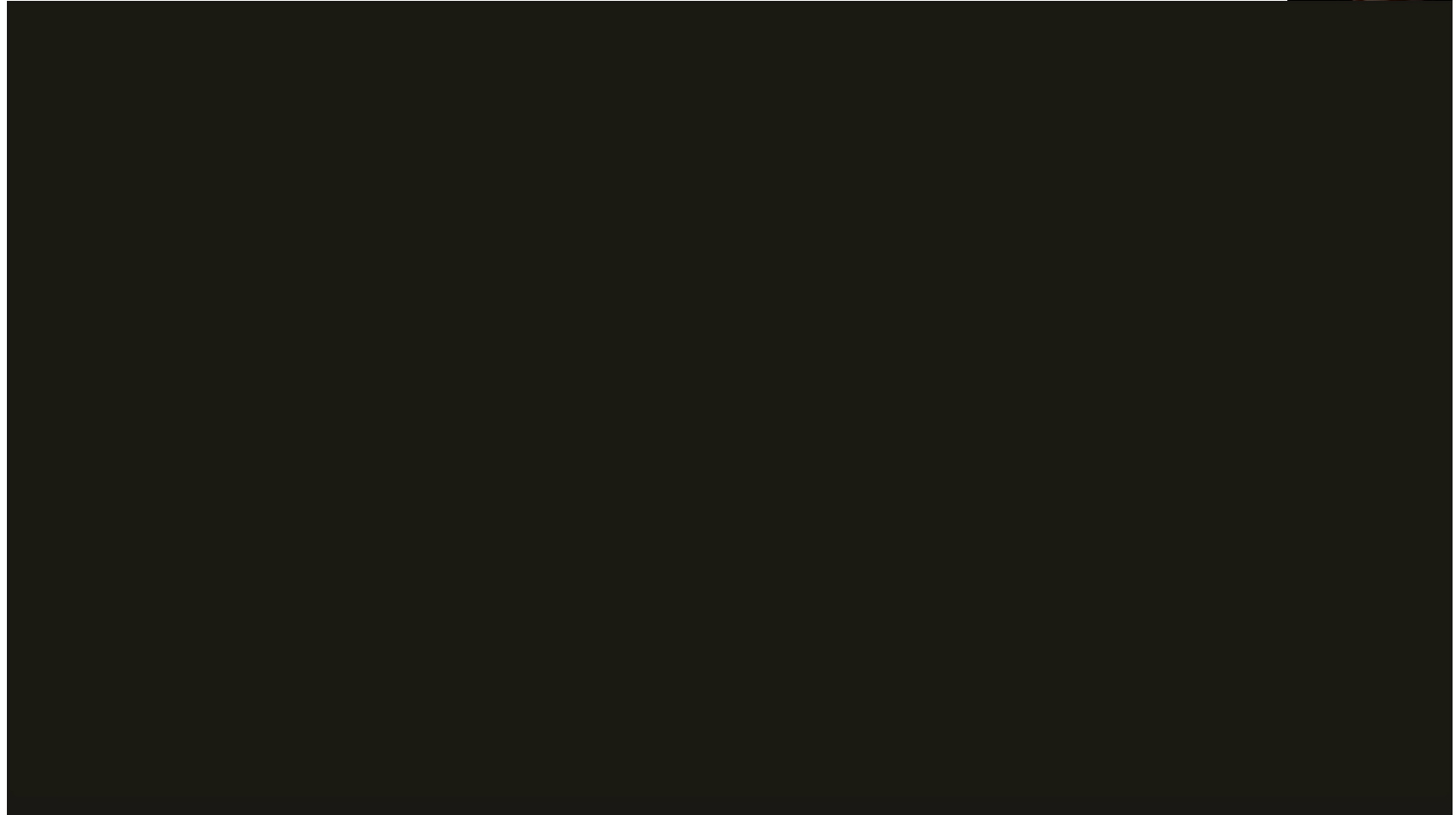
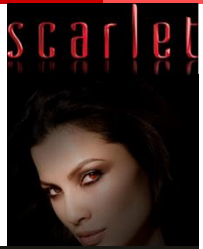
Augmented reality



Vuzix Goggles



Buzz Can Launch New Products





This type of location based targeted advertising was hailed as marketing nirvana - when consumers can receive targeted and timely advertising that is actionable and immediate



- Nike erected a large, interactive billboard in Times Square and people could use their mobile phones to text their own custom design and a chance to win receive a free pair of Nike IDs
- People went nuts when they saw their own shoes posted live on the Jumbotron in front of them
- Nike gave away 3000 pairs of shoes in this promotion and participants were just as excited about seeing their design on the billboard, as they were by the free footwear

QR Tagging



QR codes automate your mobile devices scanner /browser functionality. These codes can be used on retail merchandise tags and clothing imprints, as well as on billboards, bus shelters, print and web-based advertising



Cash Spot.
Come closer, you could win pago cash.

With pago you can now send digital cash mobile to mobile.

Get started right here. We'll send a pago message directly to your mobile, and you could win pago cash.

1. Activate your infrared or Bluetooth and change your settings to 'Visible', 'Shown To All' or 'Find Me'.

2. Point your infrared port or the circle above and wait to accept the pago message.

pago
pago.net

With pago you can now send digital cash mobile to mobile.

Get started right here. We'll send a pago message directly to your mobile, and you could win pago cash.

1. Activate your infrared or Bluetooth and change your settings to 'Visible', 'Shown To All' or 'Find Me'.



2. Point your infrared port at the circle above and wait to accept the pago message.



Social media facilitates strong community interaction. Electronic Arts, H&M & Yahoo! partner for a user generated content contest.



& Mobile Now Formally Regulated

[Guides Concerning the Use of Endorsements and Testimonials in Advertising [16 C.F.R. Part 255; First promulgated in 1975, previously revised in 1980 and now newly revised and effective 2009]

Bloggers and advertisers held accountable:

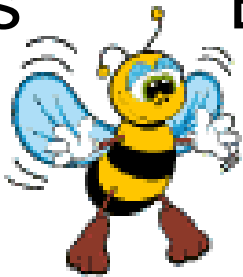
- Obligation to guide and correct errors;
- Disclose payments (consideration);
- Disclose connections (material); and
- Opinion must be honest, free of unsubstantiated or false claims.

Endorsements in social media (e.g., blogs, buzz, viral, word of mouth) are covered by FTC regulation. If there is a relationship between the advertiser and promoter that would affect the consumer's perception of the promoter's credibility, it must be disclosed.

Note: "Expert" bloggers may have independent obligations



- Advertisers liable for actions of ambassadors & influencers they “support”
- Ambassadors & influencers can be held personally liable for failing to disclose material connections to advertisers
- Ambassadors & influencers must be transparent and honest
- Substantiation or a reasonable basis for claims being made is required



- Commercial blogs & vlogs are subject to Section 5 of the FTC Act and actionable if they are false or deceptive (*FTC v. Enternet Media, Inc., et al*)
- “Sponsored” opinions (“splogs”) enjoy less protection than blog or vlog opinions
- Blogs, buzz, viral and word of mouth advertising and marketing campaigns **MUST** disclose any material connection between speaker and advertiser.

Claims Apply to Terms of Use & Privacy Policies

- Failure to honor a stated privacy policy is deceptive and misleading under Section 5 of the FTC Act AND a breach of contract
- FTC construes online privacy policy to also apply to offline data collection unless expressly stated
- Don't misrepresent purpose for which data is being collected.
- Don't overstate sophistication / protection of security technology.

Be Careful Using Social Media Platforms



PINTEREST

SOCIAL SITE THAT IS ALL ABOUT **DISCOVERY**

LARGEST OPPORTUNITIES



USERS ARE:

32% MALE
68% FEMALE

70 MILLION ACTIVE USERS



TWITTER

MICRO BLOGGING SOCIAL SITE THAT LIMITS EACH POST TO **140 CHARACTERS**

LARGEST PENETRATION



BUT SPREADING SLOWLY AND STEADILY

5,700 TWEETS HAPPEN EVERY SECOND

560 MILLION ACTIVE USERS



FACEBOOK

SOCIAL SHARING SITE THAT HAS **1 BILLION USERS WORLDWIDE**

LARGEST OPPORTUNITIES



COMMUNICATING WITH **CONSUMERS** IN A NON-OBTRUSIVE WAY

USERS SHARE **2.5 BILLION** PIECES OF CONTENT EACH DAY

1 BILLION ACTIVE USERS



INSTAGRAM

SOCIAL SHARING SITE ALL AROUND **PICTURES AND NOW 15 SECOND VIDEOS**

MANY BRANDS ARE PARTICIPATING THROUGH THE USE OF

HASHTAGS

AND POSTING **PICTURES** CONSUMERS CAN RELATE TO

MOST FOLLOWED BRAND IS **M&M**

150 MILLION ACTIVE USERS



GOOGLE+

SOCIAL NETWORK BUILT BY GOOGLE THAT ALLOWS FOR **BRANDS AND USERS TO BUILD CIRCLES**

NOT AS MANY BRANDS ACTIVE, BUT THE ONES THAT ARE TEND TO BE A **GOOD FIT** WITH A GREAT FOLLOWING

GROWING RAPIDLY WITH **925,000 NEW USERS EVERY DAY**

400 MILLION ACTIVE USERS



LINKEDIN

BUSINESS ORIENTED SOCIAL NETWORKING SITE

BRANDS THAT ARE PARTICIPATING **ARE CORPORATE BRANDS** GIVING POTENTIAL AND CURRENT ASSOCIATES A PLACE TO **NETWORK & CONNECT**



79% OF USERS ARE 35 OR OLDER

240 MILLION ACTIVE USERS

Designed by: Leverage - leveragenewagemedia.com



Play along from the comfort of your home for a chance to win \$10,000. Watch “Deal Or No Deal” on NBC and **text your chosen case number to 59595**, before the case is opened.

The winner will be randomly chosen from those that correctly picked the Lucky Case. Up to ten (10) entries per person per show.

There is a charge of \$0.99 per entry or enter online for free

Content, applications and processing anywhere, anytime

Distinctions among devices are irrelevant

Business models shift value exchanges to digital

Distinctions between businesses are dynamically evolving

Distinctions between individual, consumer, family member, employee, citizen are blurring, straining traditional legal and regulatory distinctions.



ReedSmith

The business of relationships.™

United Did What?



UNITED



Original
video,
uploaded to
YouTube in
July of 2009



Yes, there is even a clip on YouTube entitled: “Hitler Finds Out United Breaks Guitars.”

“Yes, these videos have struck a chord with all of us here. The second video is suggesting we do something that we’ve already done — and that is to provide our agents with a better way to escalate and respond to special situations. While his anecdotal experience is unfortunate, the fact is that 99.95 percent of our customers’ bags are delivered on-time and without incident, including instruments that belong to many Grammy award-winning musicians.”

United spokesperson Robin Urbanski

SOFTPEDIA™

Updated one minute ago



autoevolution editorial: I Want to Drive!...

TODAY'S NEWS: JavaScript Is More Popular with Web Developers than PHP

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- DRIVERS
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- ◆ Science
- ◆ Technology
- ◆ Webmaster
- ◆ Security
- ◆ Microsoft
- ◆ Linux
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- ◆ Games
- ◆ Telecoms
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- ◆ Interviews
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Ads by Google

Eddie's Guitars
 Best Selection of Don

Home / News / Life and Style / Travel

Travel

United Airlines Breaks Guitars, Loses \$180 Million

By **Elena Gorgan**, Life & Style Editor
 24th of July 2009, 19:31 GMT

Adjust text size: **A-** **A+**

After Canadian singer Dave Carroll takes his story to YouTube

- Ads by Google** [Guitars](#) [Bass Guitars UK](#) [United Airlines](#) [Solid Body Guitars](#) [Chet Atkins Guitars](#)



Luggage mishaps are known to happen on airplanes, be it at the airport, or because of the way the packages are stored and transported. Either way, the flight company eventually owns up to them and finds some form of compensation for the respective passenger. This did not happen to Canadian singer Dave Carroll, who had his Taylor acoustic damaged on United Airlines and who took his plight to [YouTube](#). United stock [fell by ten percent](#) because of it, amounting to a loss of \$180 million, the [Daily Mail](#) informs.

The incident occurred in 2008, when Carroll saw his [guitar](#) being thrown around by airport personnel before being loaded. As he arrived in Chicago, he saw that, indeed, his Taylor was broken, so he took his complaint to United Airlines. The company, in its

S-213 Airline Passenger Bill of Rights Act of 2009



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Passenger rights debate on glide path to Congress

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On the Road with
Bill McGee

By **Bill McGee**, special for USA TODAY

You may not have read much about airline passenger rights recently, but there's little doubt the topic will be garnering more attention. Despite its busy legislative calendar, Congress may soon end years of debate by making an Airline Passenger Bill of Rights into law.

Last week I was among a group of proponents and opponents of such legislation who gathered for a Passenger Rights Stakeholder Hearing in the Rayburn House Office Building in Washington. The event, which was sponsored by [FlyersRights.org](#) and the Business Travel Coalition (BTC), had an air of certainty about it—for many, such a law is now all but certain since being approved as a provision in the latest [Federal Aviation Administration](#) reauthorization bill. Three out of five members

on the expert witness panel stated they thought some form of passenger rights legislation is now inevitable.

RELATED: [Fliers on delayed planes get more support](#)

Testimony unplugged

It was a dynamic morning, highlighted by testimony from passengers who suffered through abysmal treatment by airlines during irregular flight operations in recent years. This included Kate Hanni, the executive director of [FlyersRights.org](#), who has become the face of this movement. The airline industry's primary trade organization, the Air Transport Association of America, was invited but choose not to participate. However, cautionary words about the unintended consequences of legislating airline service were heard from industry and academic critics.

The keynote address was delivered by Sen. [Barbara Boxer](#) (D-Calif.), who declared the battle for Passenger Rights won, and asserted the bill would soon become law: "It will happen." We were even entertained by Dave Carroll and his band, who offered an unplugged version of [United Breaks Guitars](#), the mishandled baggage anthem that has generated 5.6 million views on [YouTube](#).

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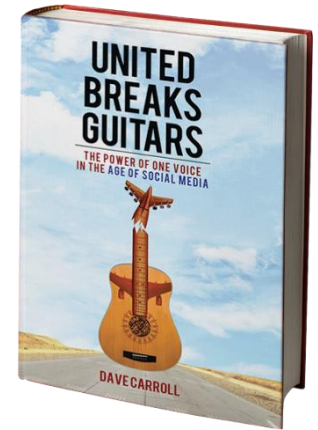
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United Becomes a Case Study

A new video, entitled “I’ve Got a Book Comin’ Out,” launching Mr. Carroll’s new book was uploaded to YouTube in May 2012.



The band generated enormous publicity, Mr. Carroll’s music and career have become enormously successful without a single recording or music company involved and Carroll has given lectures on the power of social media and the paradigm shift in consumer activism and customer service.

<https://www.youtube.com/watch?v=Hd8XI42i2M>

- Current IP laws often ineffective or unenforceable
- Reputation management replacing trademark protection
- Licensing and subscription models replacing copyright protection
- New, unimaginable forms of digital content continue to replace traditional advertising
- Peer to peer interaction and location based marketing are increasingly dominant

- Privacy no longer only about personal sensitivity, but growing as an economic link in the chain of consumer marketing
- Data breaches are increasingly more damaging, but inconsistent legal and regulatory approaches to privacy and security continue to challenge the industry
- “Big Data” and “Cloud Computing” pose opportunity and challenge for advertisers and agencies

- Consumer complaints and ‘influencers’ are visible, vocal and impactful
- Legislators and regulators strive to ‘keep up’ with premature or ill-informed action ineffective
- Traditional distinctions blur between advertisers, endorsers, bloggers, employees and consumers, creating liability and regulatory issues
- Distinctions blur between advertising, information, editorial-opinion, gaming and entertainment



In a world where social media, mobile technology and digital innovation is relentless, understanding the legal and regulatory framework within which this dynamic ecosystem is evolving is critical for advertisers and agencies.

The AHAA Moment!



Since it's now all about the conversation,
if you have learned one lesson today it's that you
must
include your lawyers in the conversation

We're Not in Kansas Anymore



Social Media



www.reedsmith.com/networkinterference

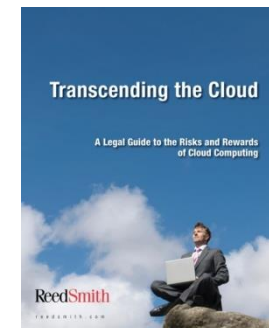
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Questions??



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