

# Social and Mobile and Clouds

Oh My!

## The Brave New World of Marketing in the Digital Age

Presented by

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Partner & Chair

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**ReedSmith**

The business of relationships.<sup>SM</sup>



Asociación de Ejecutivos  
de Ventas y Mercadeo  
de Puerto Rico



THE RITZ-CARLTON®  
SAN JUAN

SME Digital Forum  
May 25, 2011

# On the Agenda Today

**Update General Principles of Advertising Law**

**Advertising Claims**

**Comparative Advertising**

**Consumer Protection**

**Mobile Marketing**

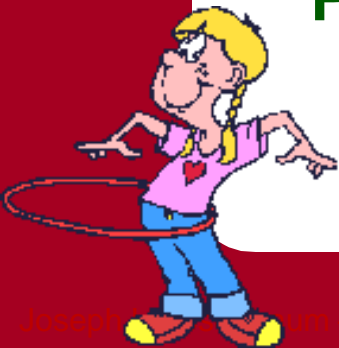
**Employees, Brands and Reputation Management**

**Privacy & Behavioral Advertising**

**Social Media**

**Promotions (Sweepstakes and Contests)**

**Endorsements**



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# In the good old days you could sell guns in children's magazines



## Seven to seventeen... DAISY will make it a Christmas to remember

Whether you're just starting out... or graduating to a high-power pellet plinker... DAISY's got the right gun for you. You'll have years of fun shooting outdoors—or in your own basement, or rec room with Mom and Dad. (In fact, we bet that even still remember the fun he had with his DAISY.) Show them these beauties and see if they don't agree—the DAISYs are better than ever!

**1** Daisy Pellet Rifle. Long to love, with precision beyond words and greatest steel barrels.

Model 104 (shown) shoots .22 cal. pellets accurately up to 100 feet. About \$24.95.

Model 106 shoots .22 cal. pellets accurately up to 80 feet. About \$20.95.

Model 108, top target accuracy up to 90 feet with .177 cal. pellets. About \$19.95.

Model 106 shoots .177 pellets. 20-in. tube up to 400 feet. About \$14.95.

**2** Model 21 Manxglass, "Squire" design" of the famous "Hammings" rifle-action .22 regular. 24-shot. About \$17.95.

**3** Model 1894, 40-shot lever action "Berkie" design" of the rifle that won the West. About \$11.95.

**4** Model 24 Target Special, approved National Rifle Association target. Wood stock and frame. 20-shot. About \$26.95.

**5** Model 25 Pump Gun, a favorite for easy clean-up. 20-shot. 20-shot. About \$12.95.

**6** Model 96 Minute Carabinized real wood stock, 200-shot regulator. About \$11.95.

**7** Model 81 Woodstock, handsome sporting styling, 200-shot. About \$20.95.

**8** Model 111 Wadwin Carbine has excellent accuracy. 100-shot. About \$20.95.

**9** Model 184 Scope Gun has steel prep scope. 100-shot. About \$21.95.

**10** Model 103 wood stock, short length. 100-shot. About \$8.95.

See 'em all at your Daisy Dealer—or write for free 20-page catalog for: DAISY Manufacturing Company, Box 1280, Rogers, Arkansas 72756.



Check with purchase at Remington Arms Company, Inc.

Advertisement in 1966 *Boy's Life Magazine*



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# What is an “Ad” these days?

Advertisers and consumers are becoming content creators; media and entertainment companies are becoming ad supported revenue engines; technology and search companies are becoming network publishers; telecommunications and gaming companies are becoming content creators and distribution platforms.

Reality Programming, Interactive Gaming, Virtual Worlds, Gadgets, Widgets, RSS Feeds and Online User Generated Content – in programming, for promotional purposes and in advertising, blurs distinctions between advertising, information and entertainment.

Social media, user generated content and technology is blurring the distinction between consumers, content producers, employees, individuals and brands.

The logo consists of a stylized blue 'R' shape with a white swoosh underneath it, followed by the text 'ME' in a small font above the 'R'.  
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# Advertising Issues

- ❖ Truth
- ❖ Privacy
- ❖ Publicity
- ❖ Puffery
- ❖ Comparative Advertising
- ❖ Consumer Protection
- ❖ Deception
- ❖ Endorsements
- ❖ Substantiation
- ❖ Blogging

## RISE OF THE 'PROSUMER'



## BLURRING DISTINCTIONS BETWEEN INFORMATION, ENTERTAINMENT AND ADVERTISING

- ❖ Branded Entertainment
- ❖ Mobile Marketing
- ❖ Viral, Word-of-Mouth and Buzz
- ❖ Environment
- ❖ Behavioral Marketing
- ❖ Indecency; Violence; Food; Obesity; Children
- ❖ User Generated Content
- ❖ Location-Based Targeting



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# Enforcement is a government & industry partnership . . .

## ❖ Federal



**NIST**



## ❖ State



## ❖ Self Regulation



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# Consider Four Basic Principles

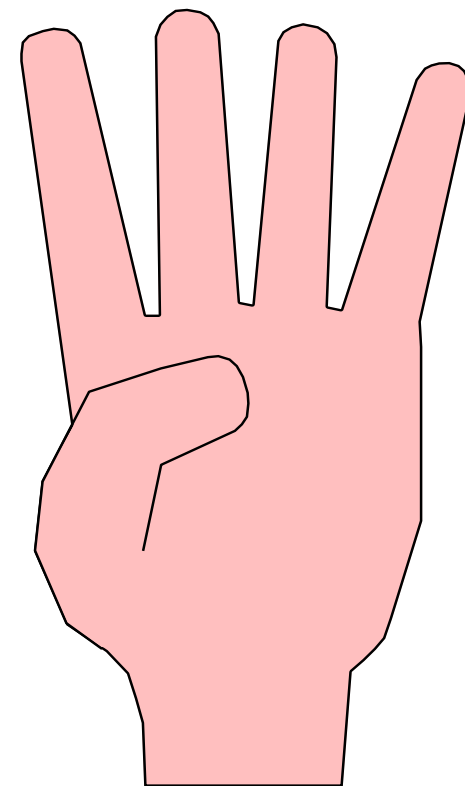
Are We Telling the Truth?

Can We Support All Claims?

Did We Secure Necessary Rights?

and

Are There Specific Laws, Regulations, Social, Political, [*Fill In The Blank*] Issues That Apply?



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## FTC Act: Section 5

**Unfair** methods of competition in or affecting commerce, and unfair or **deceptive** acts or practices in or affecting commerce, are hereby declared unlawful.

**Let's not waste time with 'Unfairness'**

**Let's go straight to 'Deception'**



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# Deceptive Act or Practice

**Deception** = a representation, omission or practice that will mislead consumers.

In other words, a representation, omission, act or practice that:

- Is likely to mislead (in light of the totality of circumstances and the target audience);
- Would be deceptive to a reasonable consumer or a 'target' group (e.g., children); and
- Is material (i.e., involves information that the consumer would likely consider important as part of the decision making process)

Can be an express untrue or misleading statement or an omission of material information that has the effect of misleading the customer.

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# Is there a Claim?

**EXPRESS:** statement of fact (e.g., “Fat Free”)

**IMPLIED:** claim made through impression (not expressly); “picture worth a thousand words.”

Depiction of a claim, must represent actual use [Real life/Normal use; Demos can't be faked, staged or manipulated (Nokia and “24”)]

Independent substantiation, in advance.

**BUT DON'T FORGET THE  
NET IMPRESSION**



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The FTC requires advertisers to have a reasonable basis for advertising claims before asserting them in advertising.

(Tell the truth and be able to prove it)

All express & implied claims must be supported with substantiation ... in the file before the ad is distributed.



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# FTC Act - Basic Rules (4Ps)

## Apply to Disclosures

Disclosure of material terms must be “clear and conspicuous.” Consider “the four Ps”:

- disclosure should be **PROMINENT** enough for consumers to read easily;
- the **PLACEMENT** of the disclosure should be designed to ensure a consumer will read it;
- the disclosure should appear in close **PROXIMITY** to the claim that it is explaining;
- the **PRESENTATION** of the disclosure should be designed to ensure consumers will understand it.



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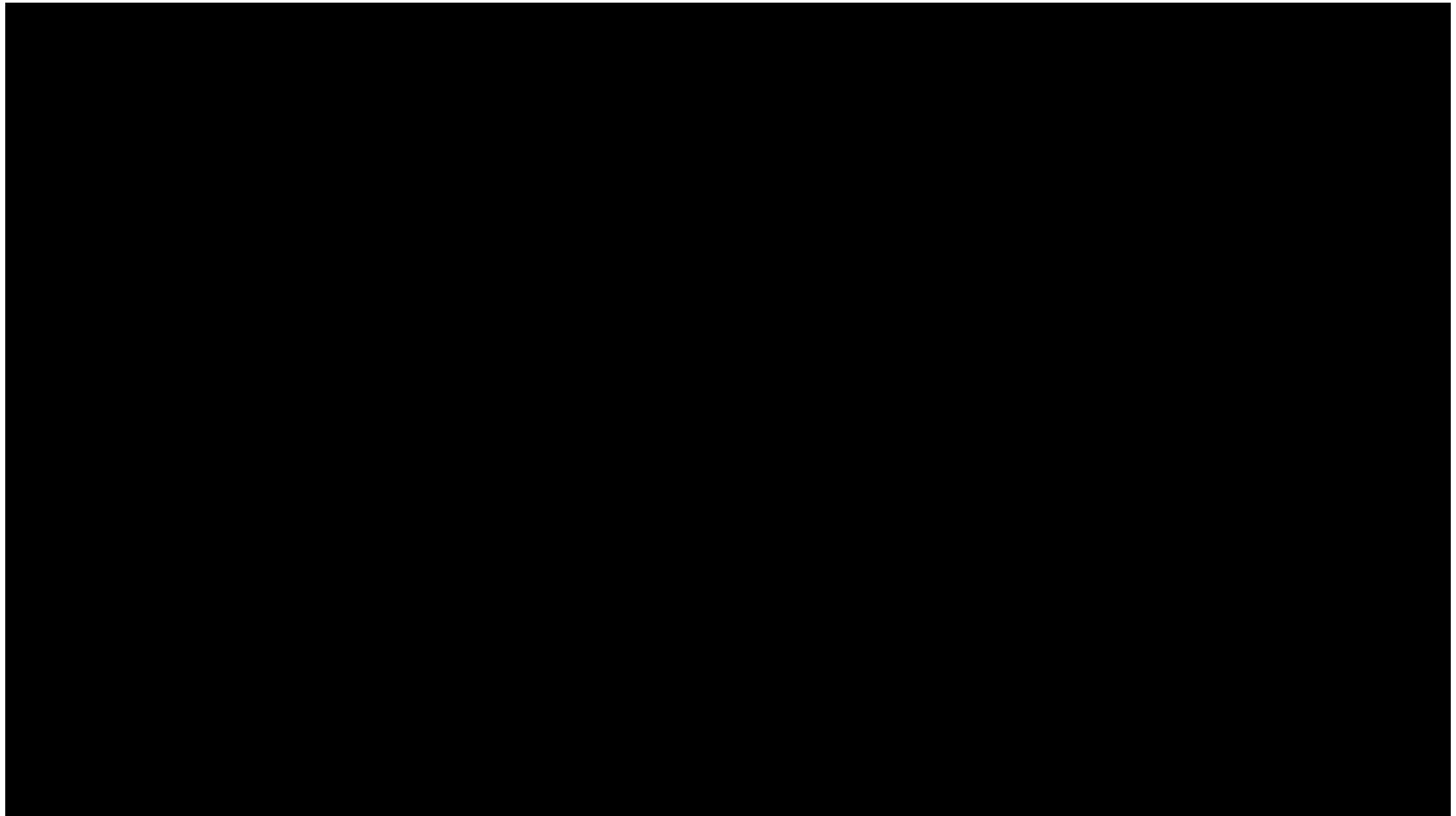
# Sometimes Disclosure Isn't Enough



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# How Did They Substantiate This Express Claim?

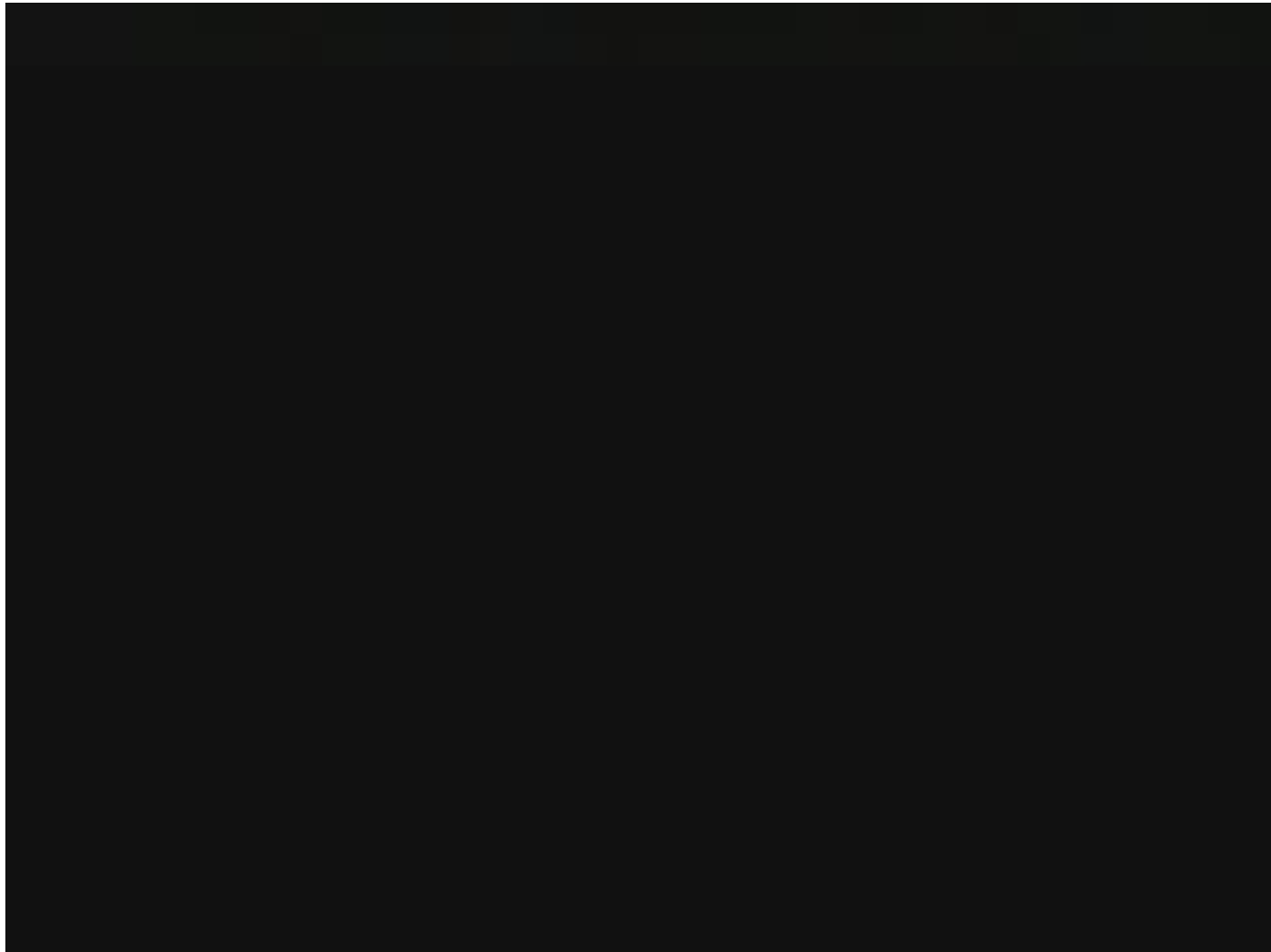


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# This Implied Claim . . . .

## Created an Express Problem



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## But...

- **Demos must not be faked, staged or manipulated.**
- **Must have support in advance.**
- **Demos must work in real life & normal use!**



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# Valuable Demonstration in Action



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# Until You Look Behind the Curtain



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However . . .

Not all assertions require substantiation. Opinions, exaggerations, hyperbole, or similar assertions that

- cannot be proven or disproved, or
- no reasonable person would believe or would consider material

are known as **puffery**, and are not required to be substantiated.



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The advertiser's right to lie  
utterly and completely,  
because no one is going  
to believe it anyway.



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This is puffery . . .



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... is this puffery?



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# Remember Net Impression



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Failure to honor your own stated privacy policy is deceptive and misleading under Section 5 AND a breach of contract.

FTC construes online privacy policy to 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.





## Payment = Ownership

I paid my ad agency for the work, consequently I own it

NOT unless you have a written agreement that says so, in advance!

## Intellectual Property Right = Protection

They copied my ad or used my brand and trademark, let's sue them

Ideas are not protected, only the specific form of expression

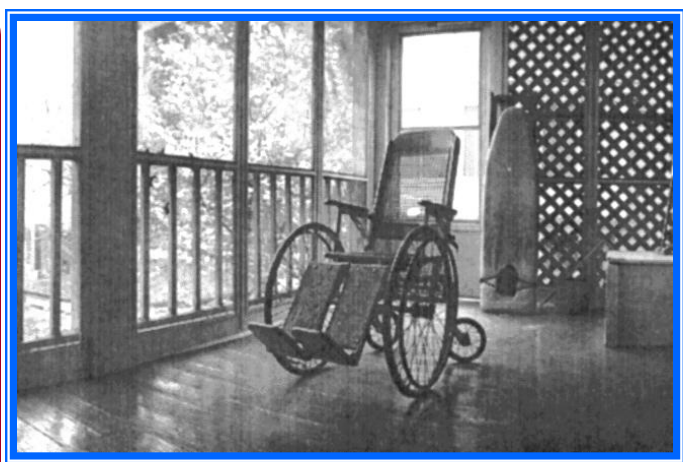
Infringement = Actual copying or Access & Substantial Similarity  
(but there are exceptions:  
fair use, parody, comparative ads)



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# Infringement?



← Curtis Photo – Stock (Getty Images)

Comp was used in client presentation & shoot

Final ad →  
looked like stock photo

Court awarded \$140,000

**HIS LEGS WERE CRIPPLED,  
BUT HE CARRIED THE WEIGHT  
OF THE FREE WORLD ON  
HIS SHOULDERS.**

Many could not identify Churchill or Eisenhower, either. That's shocking and sad, and we wanted to do something about it.

So General Dynamics has brought a series of dramatic profiles of twentieth century leaders to PBS. And in a mailing to America's high schools, we have offered free videocassettes of our PBS programs featuring Churchill, Eisenhower, LBJ, and Pope John XXIII.

Twenty-two million American students will see them and learn how individuals with courage and conviction can make a difference.

Yet in a survey of high school seniors, 52% could not identify Franklin Delano Roosevelt.

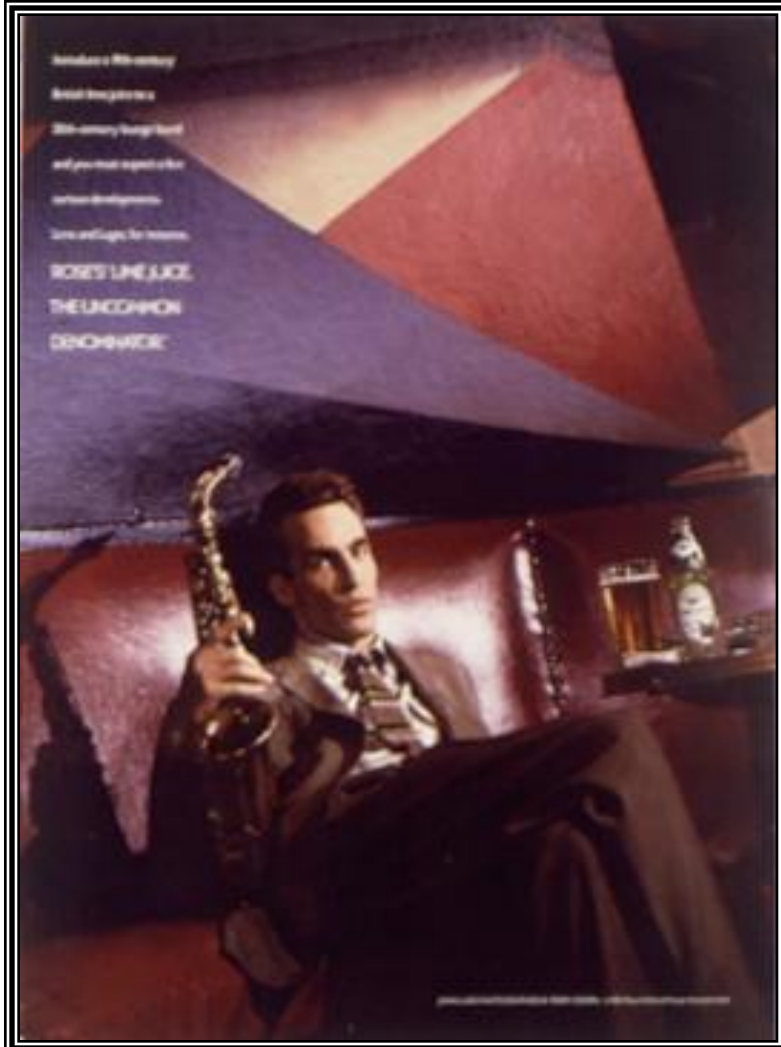
**GENERAL DYNAMICS**  
A Strong Company For A Strong Country



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# What do you think?



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# Copying? Infringement?

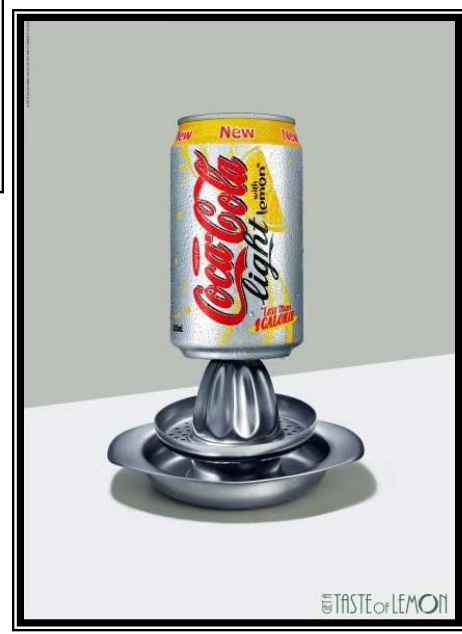
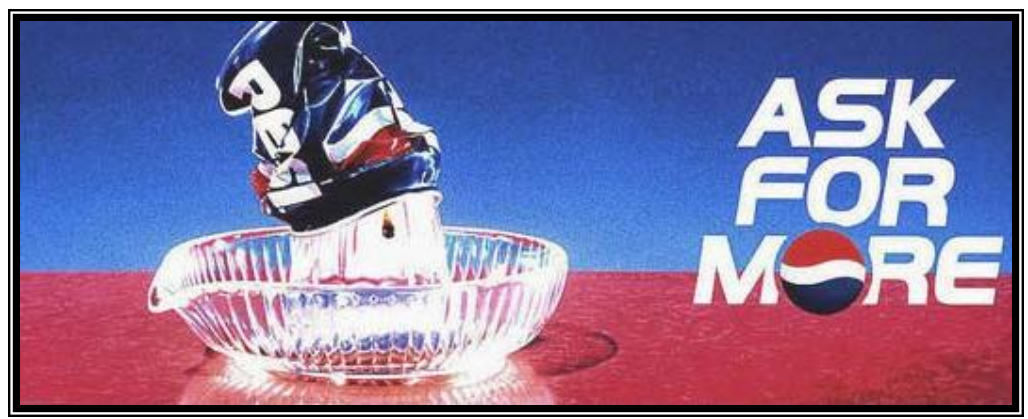
What do you think?



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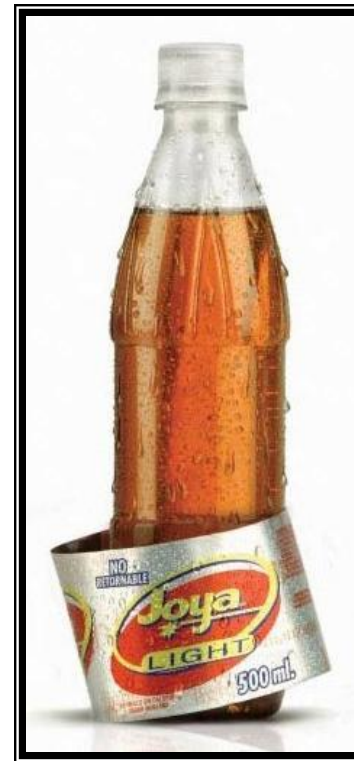
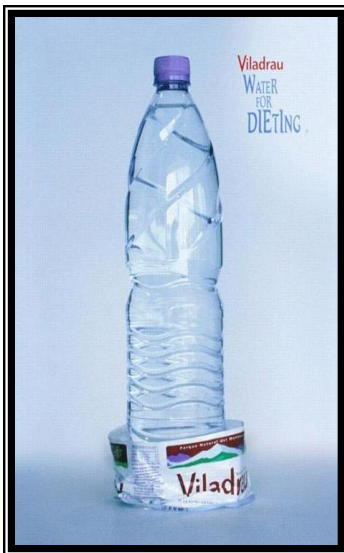
# How about these?



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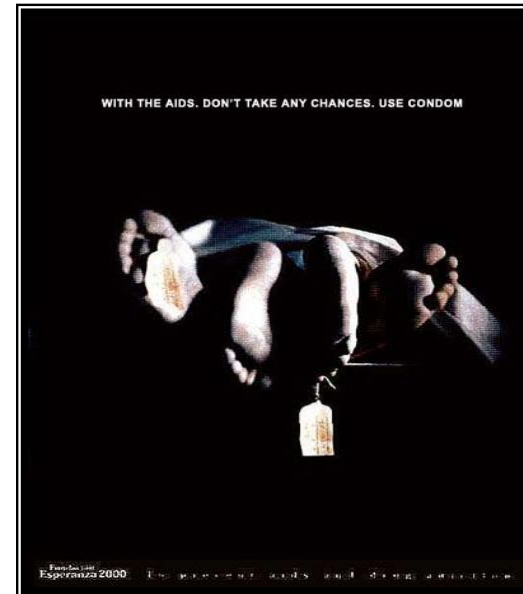
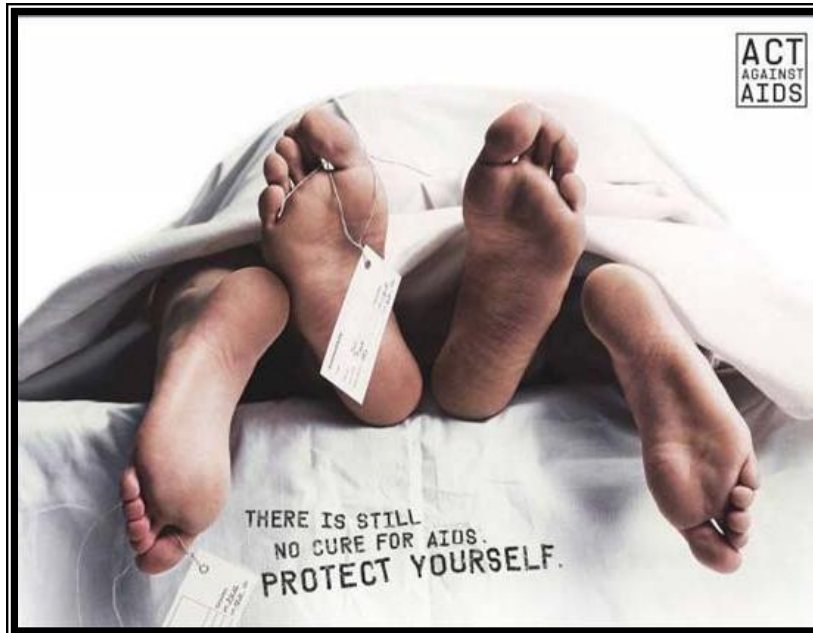
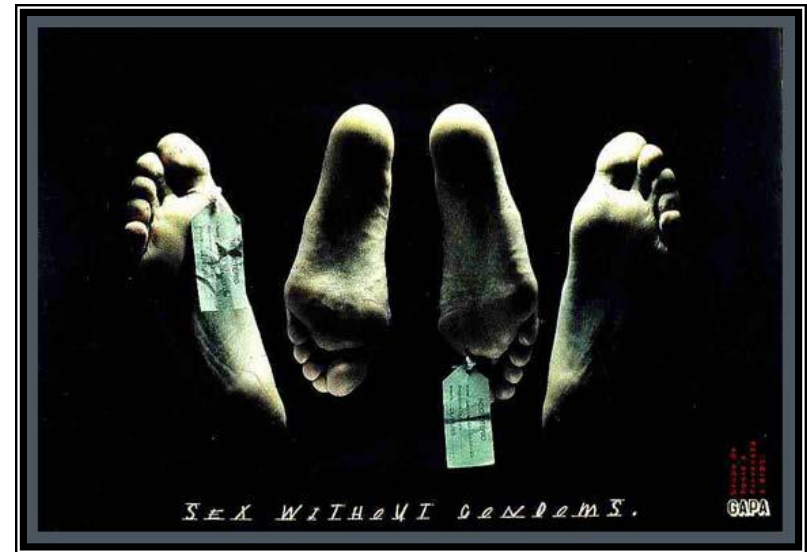
... and these?



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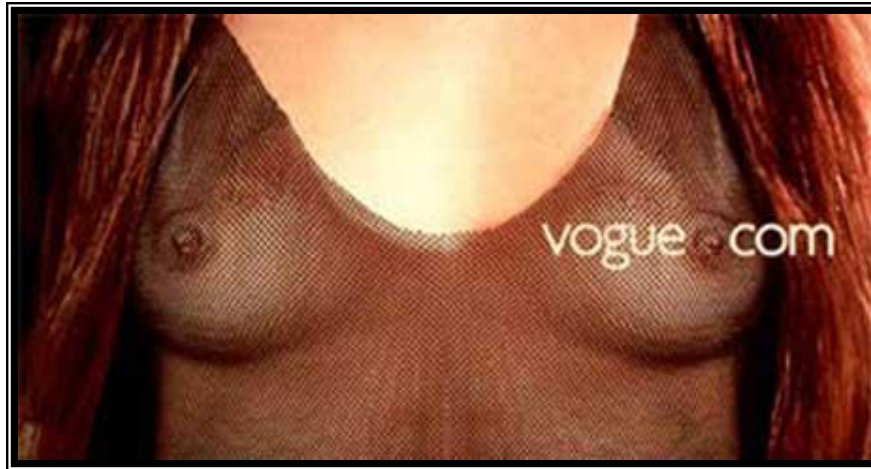
... or these?



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... or these?

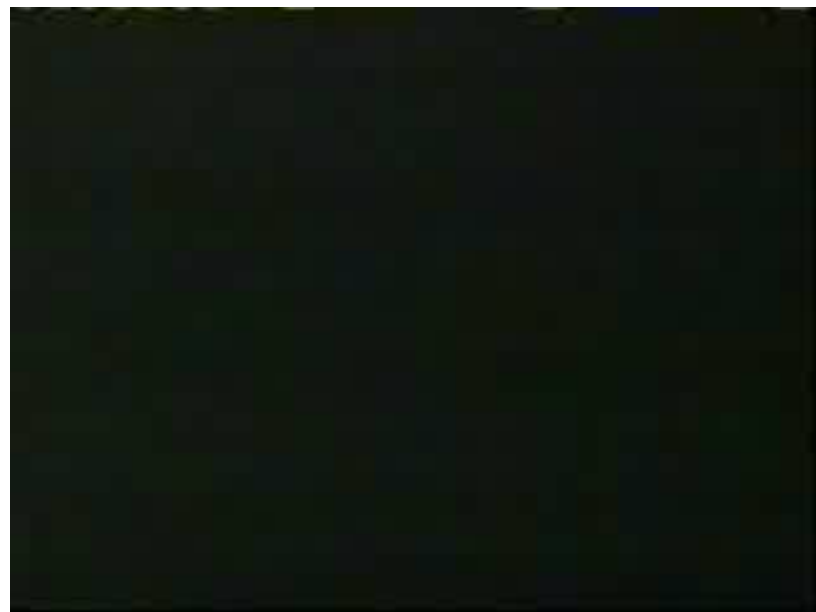


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# Idea or Expression?



Lugz Boots



Apple iPod



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# Parody – Can't You Take a Joke?

You can use someone else's material IF the use is a parody.

1. But humor is not enough. The use must be satirical or ridicule the original work - being funny is not enough.

2. If you are in the business of satire and comedy, parody is almost always ok.

BUT, what if you want to use parody for a commercial purpose?

(Hint: See #1)



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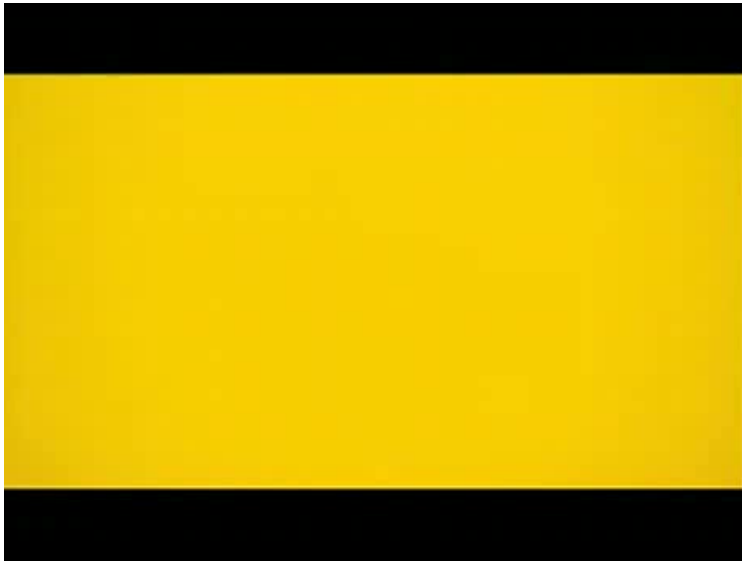
# Is This?



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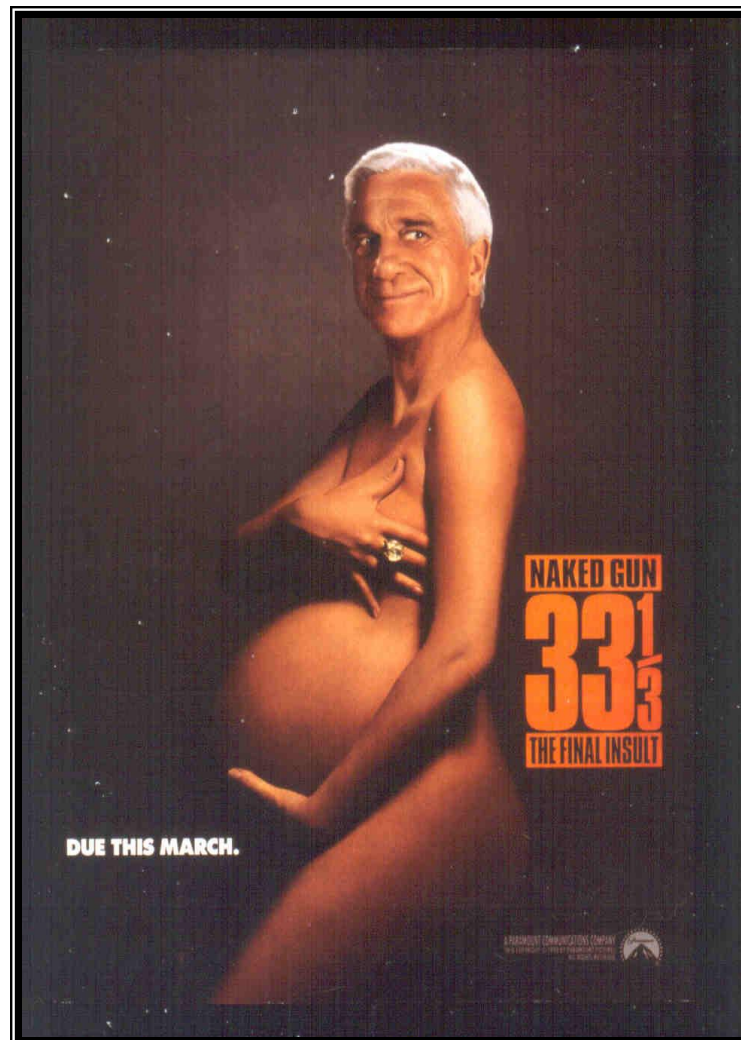
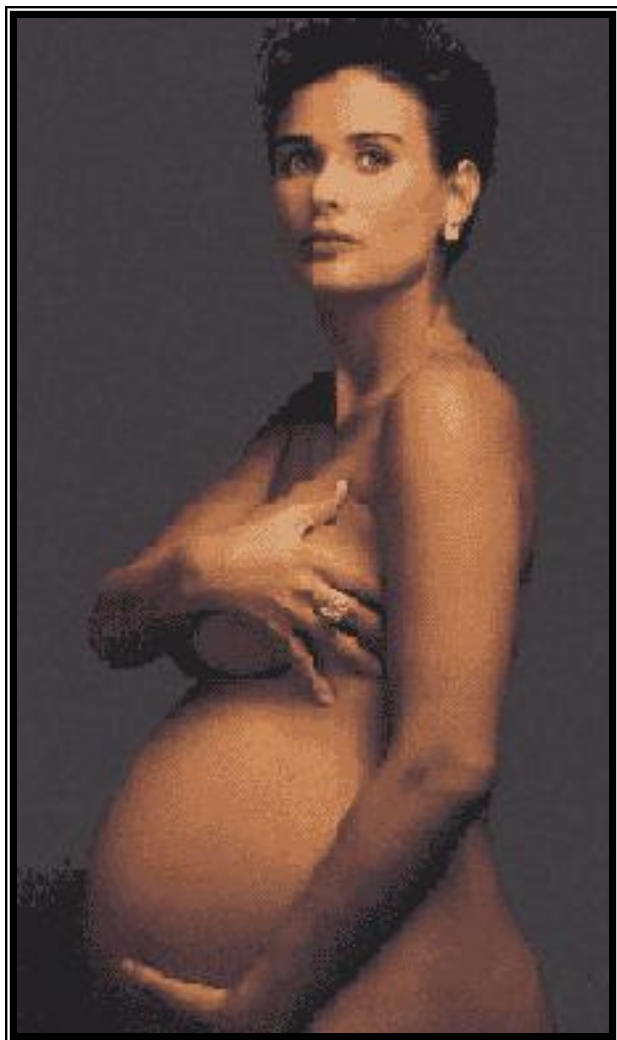
# Cadbury vs. Wonderbra: You Can't Make This Up!



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# Parody is a Defense! That's Funny



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# I Love Paris in the Springtime

... would you like fries with that?



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# Is This Parody?



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Or this?



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# Competitive Advertising

*www.funnymos.com*

**Congratulations to Audi for winning  
South African Car of the Year 2006.**



**From the Winner of  
World Car of the Year 2006.**

Audi is proud to have been named the winner of the South African Car of the Year 2006 award. This is a testament to the quality and performance of the Audi A8. The Audi A8 is a luxury sedan that has been named the World Car of the Year 2006. This is a testament to the quality and performance of the Audi A8. The Audi A8 is a luxury sedan that has been named the World Car of the Year 2006.



Facts are Facts



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# Comparative Advertising

You know,  
the thing is  
**not** with that  
card. That's  
the problem.

Looking for  
cash without  
MasterCard  
**could lead**  
**you nowhere.**



You know, the  
thing is with that  
card, **I don't**  
**know where.**  
That's the  
problem.

Looking for  
cash without  
MasterCard  
**isn't exactly**  
**easy.**

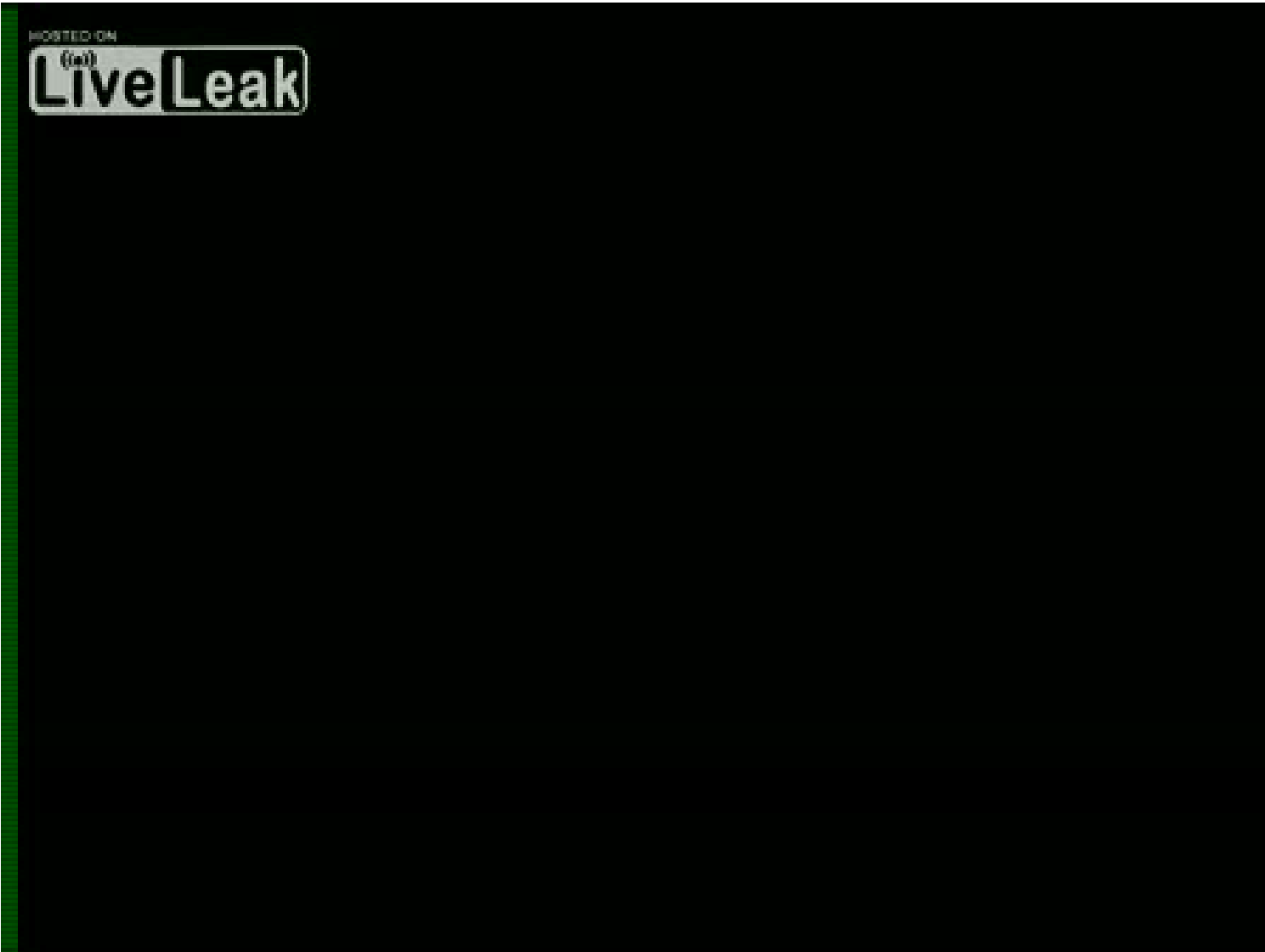
## American Express vs. MasterCard



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# Competitive-Comparative: Viral on the Internet



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# Product Placement & Branded Entertainment

No longer limited to television and motion pictures, packages, billboards, store fronts, brands are embedding themselves in credits, banners, context sensitive ads, games – even part of game play - social networks and virtual worlds.



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# Product Placement is Advertising

Product placement is subject to FTC and FCC rules with respect to deception and disclosure.

Section 5 of the FTC Act; Section 317 of the FCC Act

FCC requires sponsor identification.

Communications Act of 1934, 47 U.S.C. §§ 508,317; FCC Rules, 47 C.F.R. §§ 73.1212, 76.1615

**BUT . . . .**

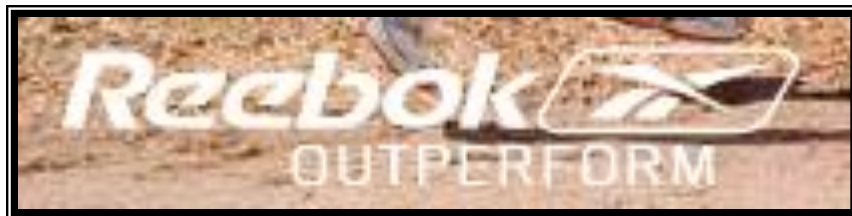
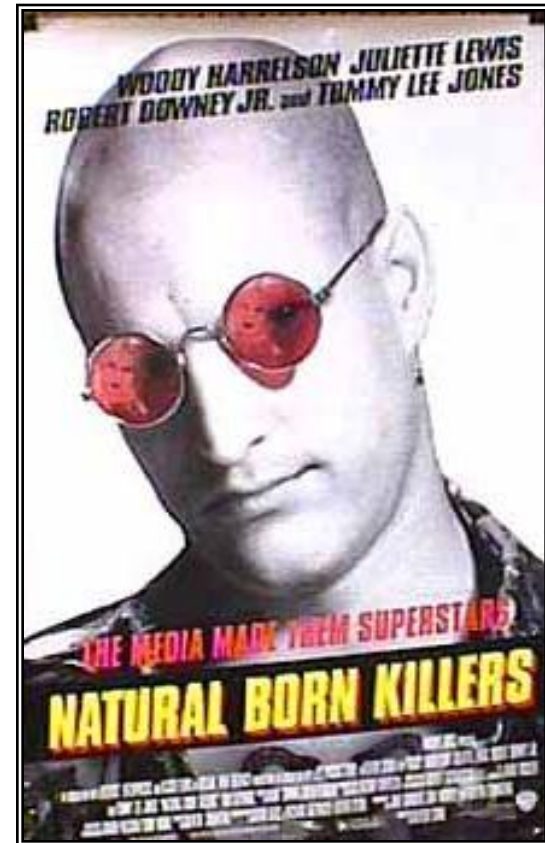
FCC rules exempt identification in feature motion picture films produced initially and primarily for theater exhibition



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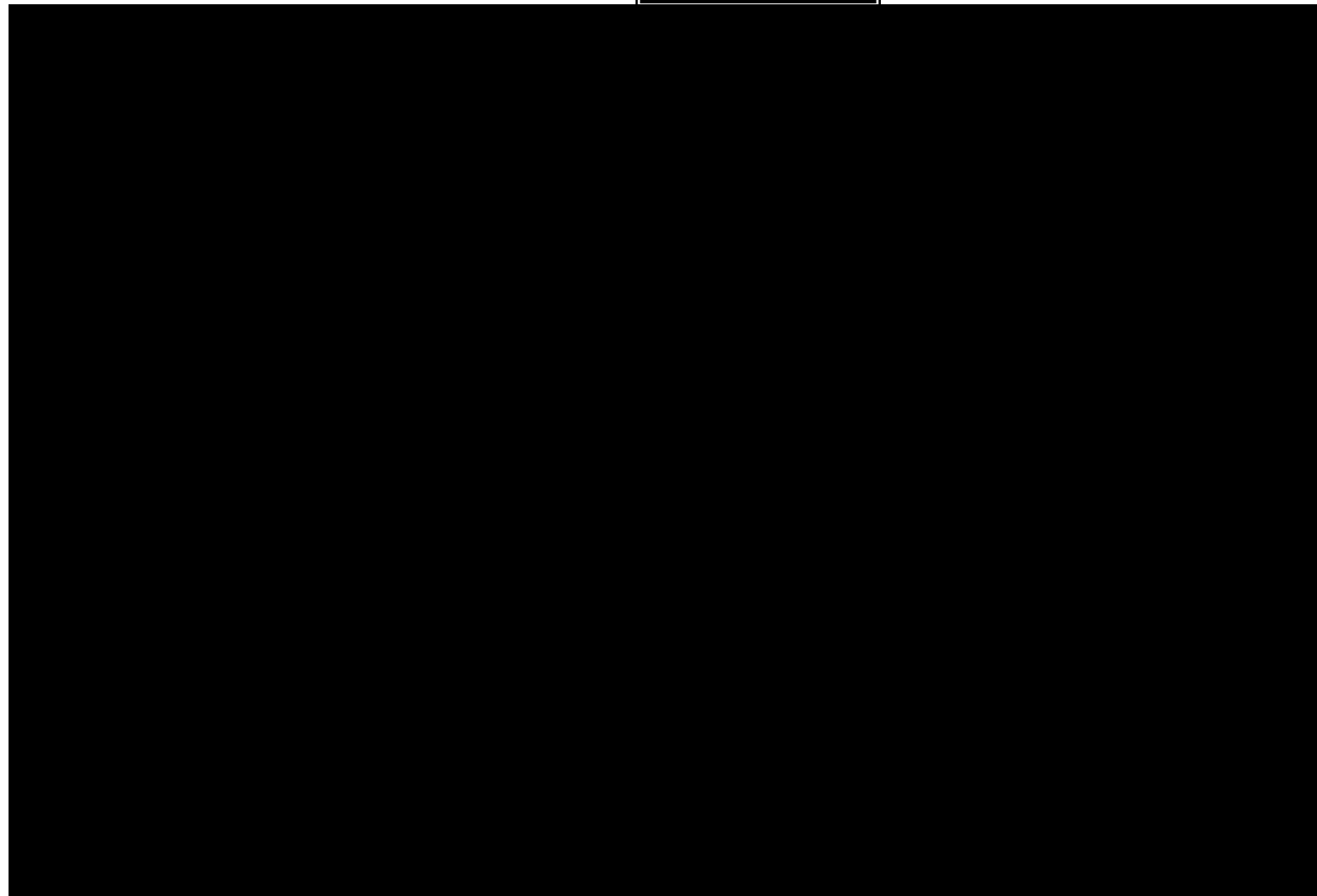
# Product Placement Headaches



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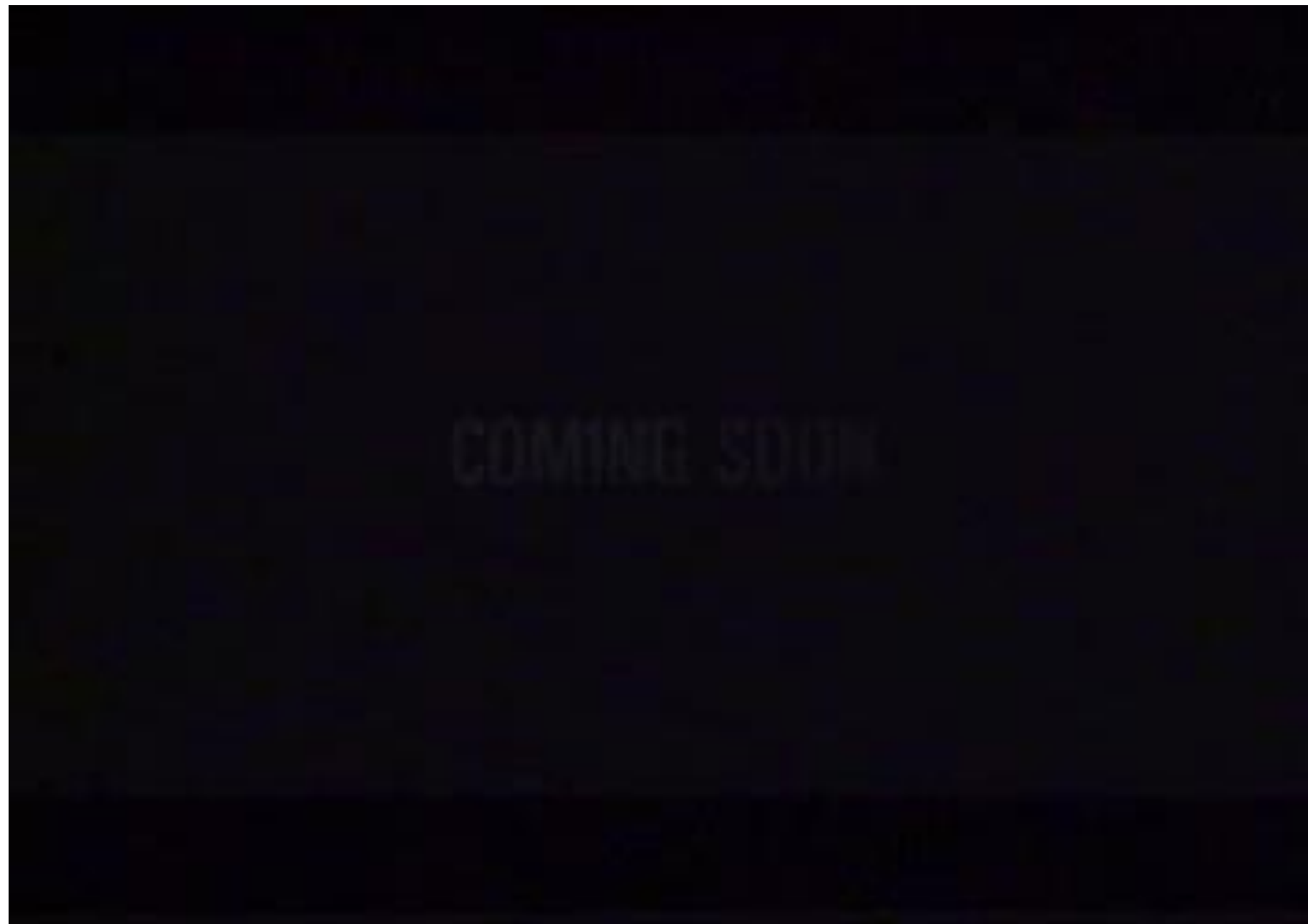
# Entertainment IS the Brand!



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# Entertainment? Brand?



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"The web is more a social creation than a technical one. I designed it for a social effect - to help people work together - and not as a technical toy."

Tim Berners-Lee, "Weaving the Web: The Original Design and Ultimate Destiny of the World Wide Web"

Welcome to the  
**INTERNET**

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# Traditional Marketing

**WHY IS HAAGEN-DAZS  
FROZEN YOGURT  
BETTER THAN YOUR  
FIRST TRUE LOVE?**



**HAAGEN-DAZS IS STILL  
98% FAT FREE.**

Imagine pineapple Sorbet tantalizingly wrapped around a coconut frozen yogurt bar. And now imagine that this bar has 100 calories. Or imagine a pint of vanilla frozen yogurt swirled with heavenly raspberry sorbet. And that these and all the rest of our incredible frozen yogurt and sorbet combinations are 98% fat free. But they're still totally Häagen-Dazs. What could be better?



**HAAGEN-DAZS. IT'S BETTER THAN ANYTHING.**

Back then advertising was disseminated by the advertiser or a party with actual or apparent authority to disseminate advertising on behalf of the advertiser.



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# Social Media

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

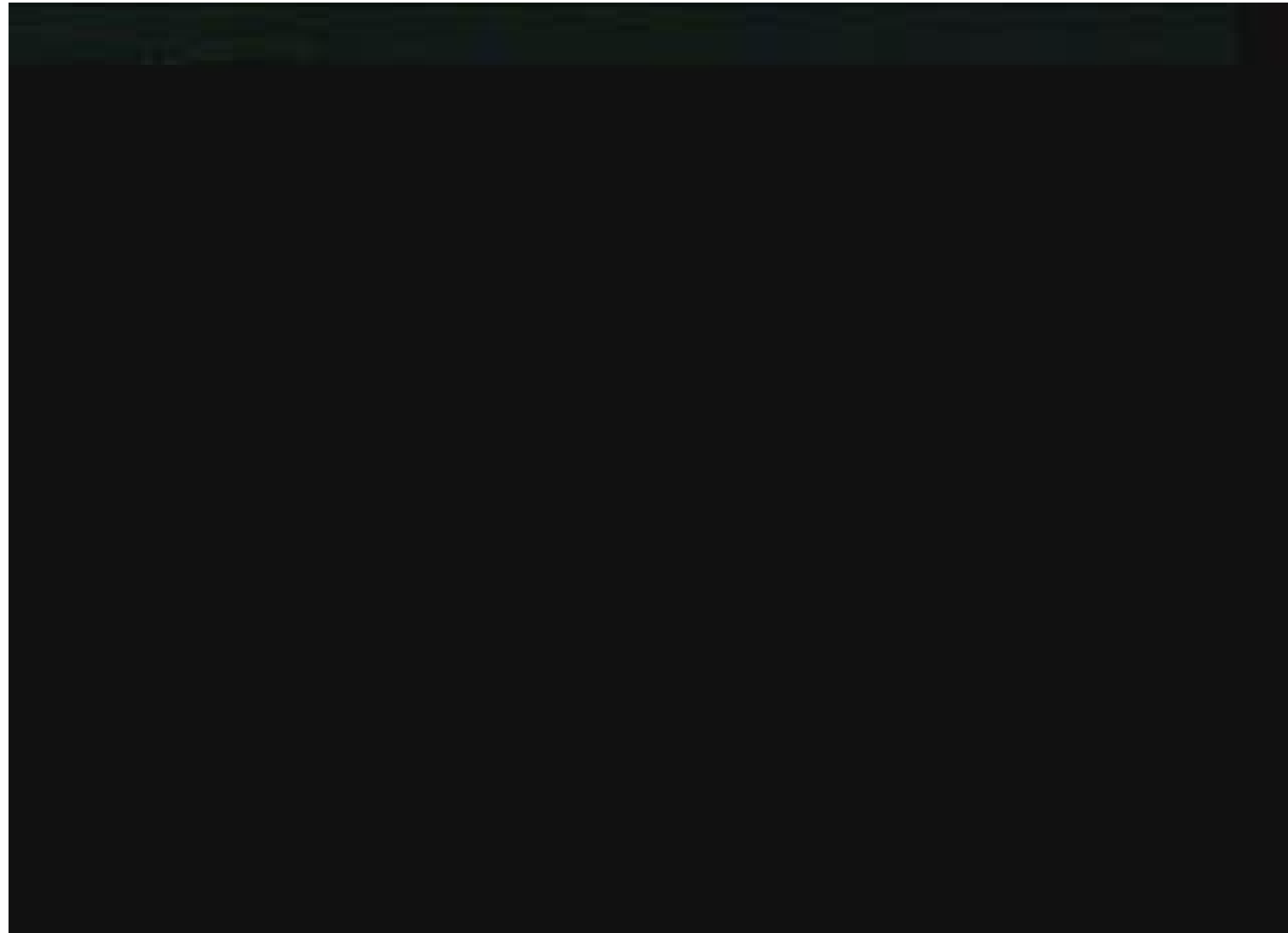
**WHY SHOULD YOU CARE?**

**BECAUSE SOCIAL MEDIA  
IS A FORCE TO BE RECKONED  
WITH**

An illegal lottery is a promotion whereby a  
consumer  
furnishes some form of  
**consideration**  
for a  
**chance**  
to win a  
**prize**



# This Sweepstakes Took Off



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# Promotions: Rules Rule

- Official rules form a legally binding and enforceable contract between sponsor and participant.
- Plaintiffs have not historically prevailed on breach of contract or fraud claims where sponsors act in accordance with official rules.
- Rules need not have been actually read but must be widely and readily available.
- Courts favor contingency plans
  - Breaking of Ties
  - Releases -- Injury and Ownership
  - Publicity
  - Indemnity
  - Force Majeure
  - Modifications or Termination



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# Promotions: Laws are Complex

Alternate Method of Entry: Sweep (YES) Contest (NO)  
Florida, New York & Rhode Island  
(Arizona – Amusement Gaming & more)

## Specially Regulated Categories

- By Industry (financial; health care; travel)
- Food
- Gasoline
- Jewelry

Everybody Wins; Prizes Must Be Awarded

Post Consideration Releases (liability; publicity)  
(Tennessee)



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A verbal or visual communication that consumers, acting reasonably, would be likely to understand to be expressing the opinions, beliefs, findings, or experiences of someone other than the sponsoring advertiser.

Note: The FTC and the Courts now use the terms “endorsement” and “testimonial” virtually interchangeably



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## 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]

- Advertisers subject to Guides when “sponsoring” ads.
- Advertisers liable for “sponsored” endorsers.
- Celebrity endorsers ensure adequate basis for claims.
- “Results Not Typical” no longer a safe harbor.
- Disclose “material connections”.



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# Endorsements as Claims

Endorser must be an actual user throughout.

Accurate depiction, typical of consumer's experience.

Reflect honest opinions, findings, beliefs or experiences.

May not contain representations or statements that could not be substantiated if made by advertiser.

Individual must actually use product/service.

Celebrities can be paid.

Consumers may not be paid or influenced.

(Obtain consumer endorsement before informing them of potential use in advertising).



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# What Changed?

## Substantiation

Advertisers using consumer endorsements must possess sufficient substantiation to support claims as if the advertiser had made the representation without any endorsements.

In other words, consumer endorsements alone are not to be equated with scientific evidence – consumer endorsements do not serve as reliable or competent scientific evidence because individual consumer experiences in the form of anecdotal evidence do not provide a sufficient basis to substantiate claims.



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# What Changed?

## Typicality

If an advertiser cannot substantiate an endorser's experience as depicting what consumers will generally achieve, then:

the advertisement must clearly and conspicuously disclose, the generally expected performance of the product or service

and

the advertiser must use adequate substantiation in making that representation.



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# What Changed?

## ‘Safe Harbor’ is Gone

“Results may vary” or “results not typical” will no longer be considered effective to disclaim actual or implied typicality representations.

The FTC staff has determined these types of disclaimers alone are unlikely to be effective in communicating to consumers the limited applicability of the endorser’s experience.



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# What Changed?

## Liability

Explicitly clarifying that advertisers will be liable for making false or unsubstantiated statements made through endorsements; and

advertisers will be liable for failing to reveal material connections to endorsers; and

endorsements must reflect the honest opinions, findings, beliefs or experience of the endorser who will be liable for false or unsubstantiated statements.

The only relevant criterion in determining whether a statement is an 'endorsement' is whether consumers believe the statement reflects the endorser's views.



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# What Changed?

## Experts & Celebrities

Previously, experts and celebrities were treated the same way. Payments did not generally trigger disclosure requirements. BUT now:

An expert can be paid for an endorsement, but if it's not a flat fee or if the fee is related to success, then disclosure of the compensation relationship will be required; and

Where consumers would normally expect a celebrity endorser to be paid no disclosure is required, but. . (talk shows, public appearances)



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If I don't refer to them or name them  
I can use their picture, right?



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# Privacy Became Publicity

Every person has the right to control the use of their name, image and/or likeness for commercial purposes

Became a property right, rather than personal right  
[Factors v. Pro Arts, 597 F.2d 215 (2d Cir. 1978) Elvis Presley poster] Confirmed property right as surviving death of celebrity

- If a person can recognize themselves...get a release (even if in the “background”)
- Get a release for anything borrowed from an identifiable person (Elvis costume, Charlie Chaplin hat)
- In some states, the laws can protect these rights for 100 years after death!



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# Rights Never Die . .do they?



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# Secure all necessary rights . . .

- Celebrity Talent – SAG/AFTRA
- Consumers
- Music - Licensing is very COMPLEX!
  - Composition Rights, Publishing Rights, Public Performance Rights, Synch rights, Master Recording Rights, Downloadable Content Rights
- Internet – Be careful with images and music
  - For example, content found on [www.youtube.com](http://www.youtube.com) or [www.myspace.com](http://www.myspace.com)
- Visuals
  - Photographs, Art, Film Footage, Illustrations, Posters, Paintings
- Text
  - Books, Poems, Lyrics
- Yes, even open source programming



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# What Rights Are Secured?



\$14+ Million - Reversed (but not completely. There's more)

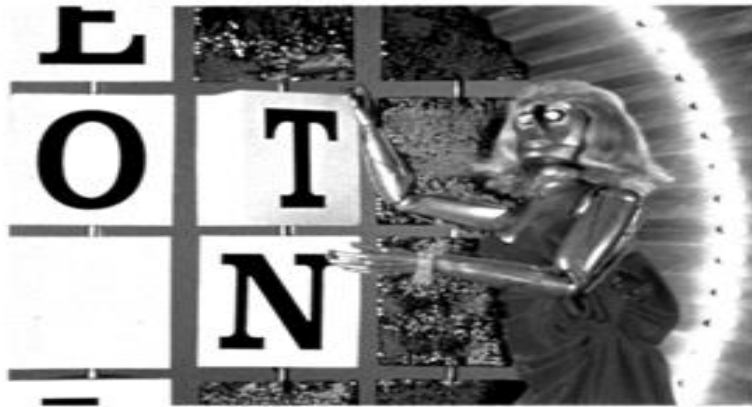


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Come on . . .

I didn't even show a picture



**Longest-running game show.  
2012 A.D.**



**The VCR you'll tape it on.  
2012 A.D.**

*Samsung. The future of electronics.*



**\$300,000 Award**

White v. Samsung Electronics



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# Politicians are fair game . . . . Aren't they?



“One of the things that I’ve learned this year is that a strong beer *can* have a really clean taste.”

“My wife is more of a beer drinker than I am, and she’s the one who first cottoned on to Molson Special Dry. It’s strong but it seems to have none of that syrupy aftertaste – it’s just smooth and clean and it goes down real easy. Now all the guys at work are into Special Dry too, and some of them like to have a beer or two with their lunch. Me, I try not to do that because I know I’d be useless all afternoon.”

Seen Purcell of Beales Park.

4 A picture of Bill Clinton



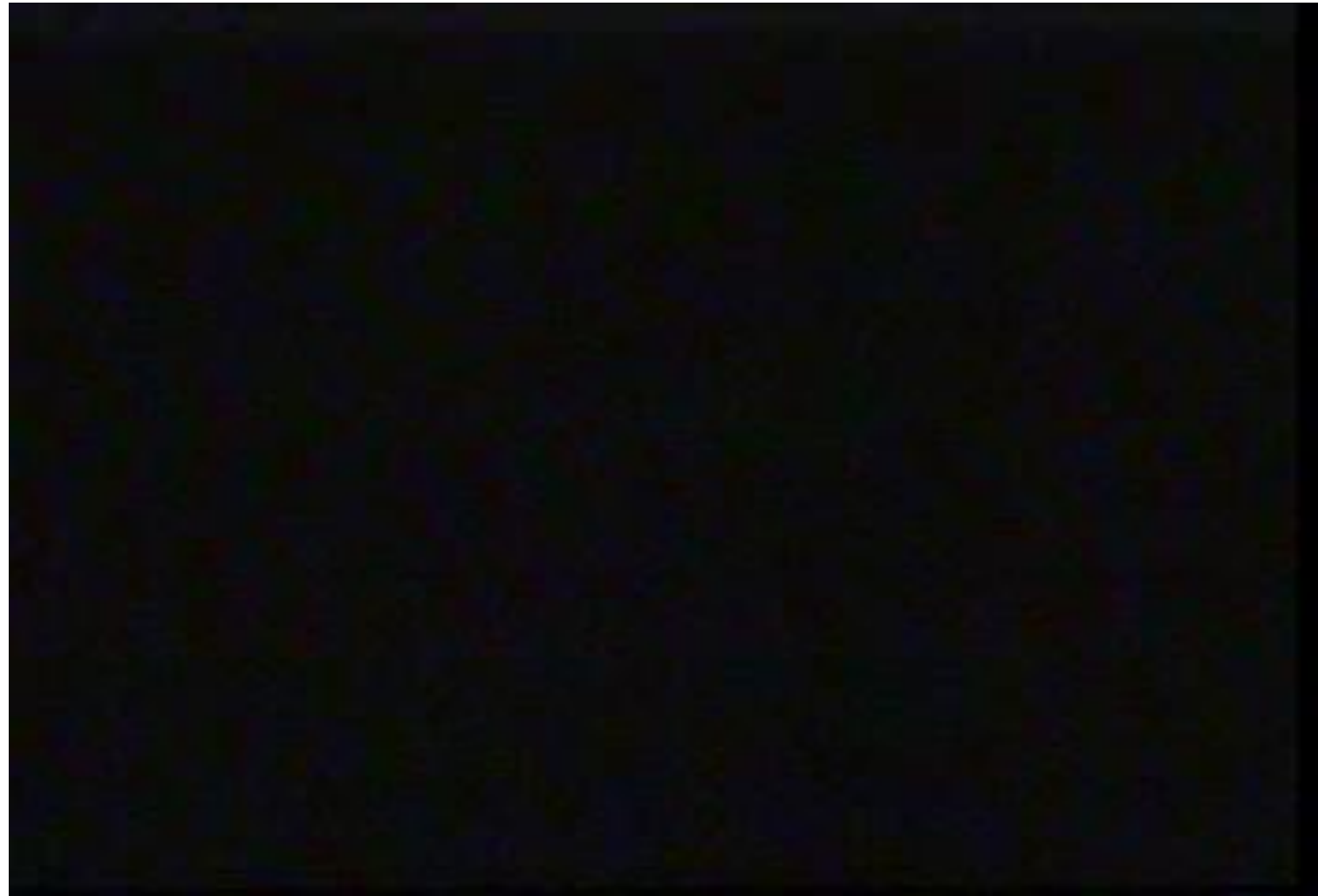
Molson Special Dry. The most important new beer for years.



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# Politicians as Spokespeople . . .



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# Nobody Asked Permission



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# A Word About Privacy

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



Google

. . . do you exist?



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# 1993 New Yorker Cartoon



On the Internet, nobody knows you're a dog.



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# Hot “New” Privacy Rights

- What is Collected? From Whom? When? How?
- Aggregate; Non-Identifiable; Personally Identifiable;
- How Will Information Be Maintained? Shared? Used?
- Who Will Have Access? When? For What?
- Federal Laws (CAN-SPAM; TCPA; GLB; HIPAA; etc)
- State Laws (Privacy; Publicity; Data Breach)
- Disclosures (Where? When? How?)
- Consent (Opt Out? Opt In? Consent)
- Rights (Revoke; Modify; Parents & Children)
- Modifications to Policy (Materiality; Purpose)
- NEW: “Do Not Track”
- NEW (old): Opt Out vs Opt In



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On the Internet, everybody knows you're a male beagle who prefers dry dog food, enjoys cruises, sneaks into the master's bedroom to lie on the bed watching cable all day and who wears a specially designed, Coach flea collar.

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The collection of information regarding web viewing behaviors over time and across unaffiliated websites in order to predict consumers' interests and the use of that information to deliver online advertising.



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# Too Scared to Order Pizza?



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## Self-Regulatory Online Behavioral Advertising Principles



- *Education*
- *Transparency*
- *Consumer Control*
- *Data Security*
- *Material Changes*
- *Sensitive Data*
- *Accountability*



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So what are the new rules of engagement  
and where are the legal risks?

Enable Conversations

Monitor Conversations

React to Conversations

Influence Conversations

Monetize Conversations



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# Paranoia Has a Purpose

If consumers are empowered and brands can't control what they traditionally controlled, then:

- **Advertising & marketing must change;**
- **Economics & revenue streams must change;**
- **Rules of engagement must change; and**
- **Regulation, law & lawyers must change!**

Reading Material  
Social Media Bible  
An Army of Davids

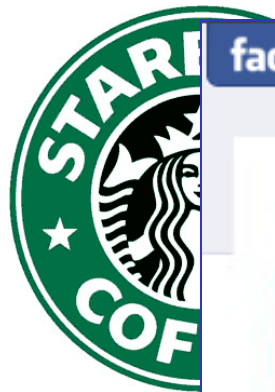


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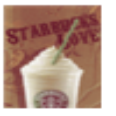

# Starbucks

The Official Starbucks Page Has **22,152,466** Fans - People Who Said “Like”



The screenshot shows the Starbucks Facebook page interface. At the top, the navigation bar includes 'facebook', 'Home', 'Profile', 'Friends', and 'Inbox'. The user's name 'Douglas J. Wood' is visible in the top right. The main header for the page is 'Starbucks Coffee Company' with a 'Become a Fan' button. Below this are tabs for 'Wall', 'Info', 'Video', 'Events', 'Discussions', and 'Boxes'. A secondary bar shows 'Starbucks Coffee Company' and 'Just Fans'. The main content area features a post from Starbucks Coffee Company with a large logo, a text update about reaching 3 million fans, and engagement metrics: 11,488 likes and 5,254 comments. Below the post is a video player for 'Cara | Italian Roast and passion' with a play button icon. On the left side of the page, there are links to 'Become a Fan', 'View Updates', and a Twitter link: 'Follow Starbucks on Twitter: http://twitter.com/Starbucks'. An 'Information' section at the bottom left states 'Founded: 1971 in Seattle's Pike Place Market'.

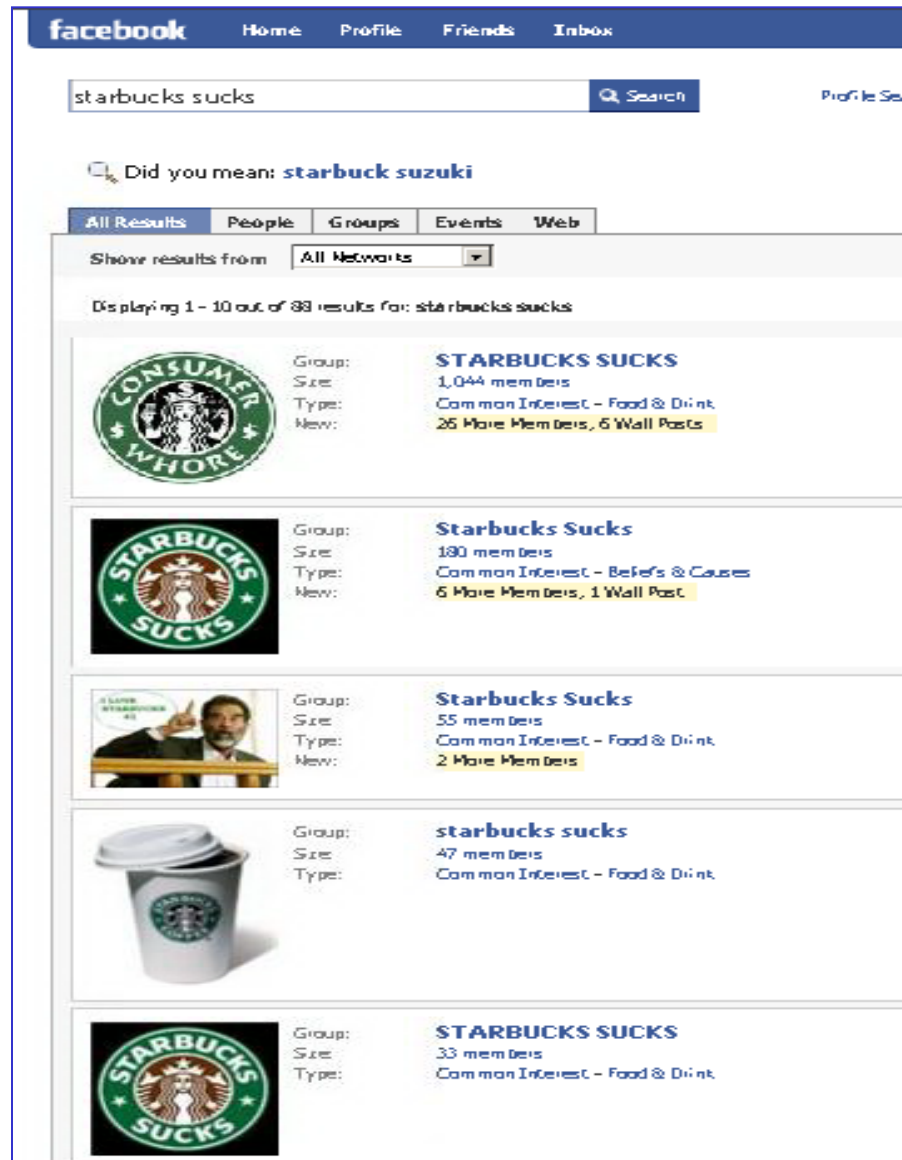
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	Application: Developer: Description: Users: Matches:	<b>Starbucks drinks</b> Ben Yoder Send drinks and pumps of syrups to your friends 170,766 monthly active users <u>Application Name</u>
	Application: Developer: Description: Users: Matches:	<b>Starbucks Drinks</b> Craig Tietz, Dohil send friends mouthwatering Starbucks drinks 121,354 monthly active users <u>Application Name</u>
	Group: Size: Type: New:	<b>Addicted to Starbucks</b> 141,602 members Common Interest - Food & Drink 333 More Members, 6 Board Topics, 21 Wall Posts, 7 Photos
	Page: Type: Size:	<b>starbucks''''''</b> Other Business 47,978 fans
	Application: Developer: Description: Users: Matches:	<b>Starbucks</b> Laraine Strait Send your friend a coffee and brighten up their day 38,911 monthly active users <u>Application Name</u>
	Application: Developer: Description: Users: Matches:	<b>Starbucks</b> K1, A's h Send starbuck coffes to your friends!!! Dont drink too much ;) 9,844 monthly active users <u>Application Name</u>
	Page: Type: Size:	<b>*Starbucks Coffee*</b> Other Business 43,507 fans

But there are well over 1,000 'unofficial' Starbucks' Fan Pages

Who are these people ??





...and who  
are THESE  
people ??

(over 800 Facebook pages)

Social media is not  
for the faint  
hearted!



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## You didn't think it would end with Facebook did you?

- Starbucks' YouTube Channel:

<http://www.youtube.com/user/Starbucks>

- Nearly 8,400 subscribers; 441,390 channel views, 5,769,685 upload views and over 50 videos;

- Starbucks' Flickr group: 4,000 members;

<http://www.flickr.com/groups/starbuckscoffeecompany/>

- Nearly 1.2 million people follow Starbucks on Twitter;

- What are their baristas (and other employees) doing?

- What are your employees doing?



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# The Translation Game

Chevy NOVA in Spanish means  
= Chevrolet Doesn't Go

In Chinese:

Coca-Cola = Bite a wax tadpole

Finger Lickin' Good = Eat your fingers off

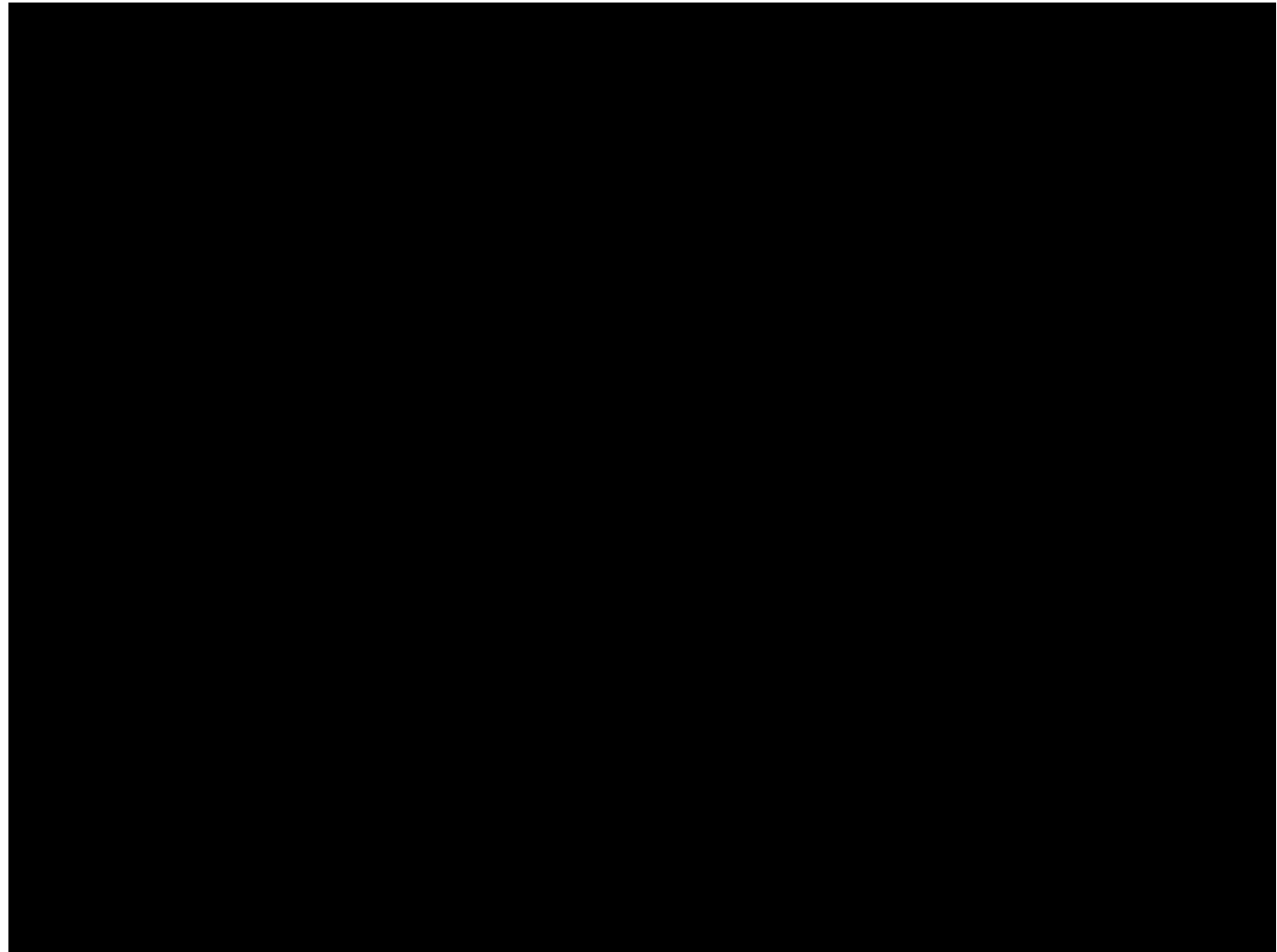
Come Alive with the Pepsi Generation  
= Pepsi brings your ancestors back to life



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# We are sinking!



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facebook Home Profile Friends Inbox Douglas J. Wood Settings Logout

Best Buy [Become a Fan](#)

Wall Info Shop + Share Gift Ideas Home Theater Events >>

Best Buy Just Fans

**Best Buy** wants to know what animated movies do you own or want to buy?

**Best Buy Weekly Ad**  
Source: bestbuy.srm.vitru.com  
Get your copy of Monsters vs. Aliens the movie or game at Best Buy starting 9/29/09 and see the Weekly Ad appearing in your local Sunday newspaper.

4 hours ago via Social Publisher · Share

357 people like this.

View all 298 comments

**Best Buy** wants you to know there is an easy way to transform your old photos & films into a digital format. What favorite photo moment do you wish was digitized so you could share it online?

**Digitize your images with iMemories**  
Source: bestbuy.srm.vitru.com  
Let our iMemories service convert your family's films & photos from any decade into digital form, so you can watch them on your TV and share them online.

iMemories



# "What do you think about offering **Bestbuy.com** in Spanish?"



Simple conversational question, right?  
What could go wrong?

The Law . . . . . of unintended consequences

Tracy Benson, Senior Director, Interactive Marketing and Emerging Media:

"It was a landmine. There were hundreds of negative responses flowing in, people posting racist, rude comments. Our contact center was monitoring this, and they were crying, waiting for a positive comment to come in."

Positive comments didn't come.



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Benson: "For right or wrong, we decided to take it down and see if the [commenters] went away - - and they did."

Benson: "We have to learn how to respond when negative comments are coming in."



United



UNITED

The original video, uploaded in July of 2009, now has over **10,418,696** views on YouTube



[http://www.youtube.com/watch?v=-QDKR-Z-69Y&feature=Playlist&p=5E51A2ADFE943B73&playnext=1&playnext\\_from=PL&index=31](http://www.youtube.com/watch?v=-QDKR-Z-69Y&feature=Playlist&p=5E51A2ADFE943B73&playnext=1&playnext_from=PL&index=31)



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United



# United Breaks Guitars déjà vu



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Singer's Sweet Revenge



United Breaks Guitars Song 2

United Breaks Guitars Song 3 - "United We Stand"

Taylor Guitars Responds to "United Breaks Guitars"

## STATEMENT

United Breaks Guitars. Ms. Irlweg Responds

United Breaks Guitars, Corporate Response Parody

"Hitler Finds Out United Breaks Guitars."

.. and, of course, the inevitable  
"Northwest Breaks Dulcimers"



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NEWS CATEGORIES:

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- ◆ Technology
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- ◆ Security
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- ◆ Interviews
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## Travel

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## United Airlines Breaks Guitars, Loses \$180 Million

After Canadian singer Dave Carroll takes his story to YouTube

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

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

Ads by Google

Guitars

Bass Guitars UK

United Airlines

Solid Body Guitars

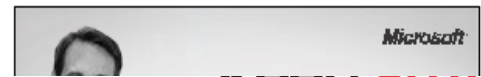
Chet Atkins Guitars



ENLARGE

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



Microsoft

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## United Aggressively Responds to "United Breaks Guitars Part 2"

"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



I'm sure this was a form letter that was sent out to everyone who commented, but that's ok. ... Still, the personalized effort to respond to tweets with this was the key. It not only responds to the issues in Dave's second video, but it also throws out some cold hard facts on the number of lost bags to help change the focus of the message. It probably has altered the conversation to some extent, and I don't think United will see anything like the backlash they saw after Dave's first effort.

Brett Snyder, Blogger

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SME





## Travel » Columns & Blogs

# Passenger rights debate on glide path to Congress

Updated 9/30/2009 11:18 AM | Comments 12 | Recommend 5



**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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# Barbara Boxer

United States Senator from California

## S-213

# Airline Passenger Bill of Rights Act of 2009

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# Buzz Can Build a Brand



- > Austria - Deutsch
- > Belgium - Dutch
- > Belgium - Français
- > Brazil - Português
- > Czech Republic - Čeština
- > France - Français
- > Germany - Deutsch
- > Italy - Italiano
- > Mexico - Español
- > Netherlands - Dutch
- > Poland - Polski
- > Portugal - Português
- > Spain - Español
- > Switzerland - Deutsch
- > Turkey - Türkçe
- > U.A.E. - عربي
- > United Kingdom - English
- > United States - English



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# Who What is Scarlet?



I thought I had to tell the truth?



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# Proprietary Worlds with Ads

The screenshot shows the Barbie.com website interface. At the top, there are navigation links for 'Polly Pocket', 'Teen Trends', 'Pixel Chix', and 'Barbie', along with a 'More fun sites at EverythingGirl.com' link and a 'PRIVACY POLICY' link. Below this is a large banner for 'Barbie girls' featuring a Barbie character and the text 'It's your world! BarbieGirls.com go!' with a copyright notice for 2007 Mattel, Inc. The main content area is titled 'Hi, Barbie® Girl!' and includes navigation links for 'Parents', 'Collector', 'Global Barbie®', and 'Shop with Barbie®'. The central part of the page is a virtual room with a Barbie character in a red top and blue pants. The room contains several interactive elements: a 'Decorate this page!' button, a 'make this your homepage' button, a 'Chat divas' chat window, a 'FASHION FEVER' game window, a 'Magic of the Rainbow' game window, a 'Fun & Games' button, a 'Shop with Barbie' button, a 'Hey!' chat window on a laptop, a 'B\*TV' advertisement on a television, and a 'B\*TV' clapperboard on the floor. The room is decorated with colorful lanterns, a doghouse, a desk with a microphone, and a small dog.



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# Online In-Game Advertising



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# Online Game World Environments



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Just your ordinary street scene . .

## Your Drink Café



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# Now Consumer to Consumer Marketing



“An Army of Davids”



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# Blogs, Vlogs, Splogs, Buzz & Word of Mouth



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*)

Although great latitude may be accorded for blog & vlog opinions, “sponsored” opinions (“splogs”) enjoy less protection.

Blogs, buzz, viral and word of mouth advertising and marketing campaigns **MUST** disclose any material connection between the speaker and the advertiser.



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# Product Promotion by Consumers

The FTC is not concerned with *genuine* consumer promotions or product reviews.

"We are not planning on investigating individual bloggers...We will be focusing any enforcements on advertisers, not on individual endorsers."

-- Mary Engle, FT-C Attorney

These types of product promotion are not likely to present issues under Section 5 of the FTC Act, prohibiting unfair or deceptive acts or practices.



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# Product Promotion by Consumers



The FTC does have concerns when consumers are speaking for marketers and that fact is not disclosed.



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# When Does a Consumer Become an Endorser?

When – viewed objectively – the consumer is being sponsored by the marketer.

Is the speaker acting solely independently (in which case there's no endorsement) or is the speaker acting on behalf of advertiser/agent such that the speaker's statement is an "endorsement" that's part of an overall marketing campaign?



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# What Changed?

## Social Media Formally Regulated

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

Example: Bloggers and advertisers should be held accountable for the contents of blog posts and product reviews:

- **Obligation to guide and correct errors;**
- **Disclose payments (consideration);**
- **Disclose connections (material ); and**
- **Blogger's opinion must be honest, free of unsubstantiated or false claims. Note that "expert" bloggers may have independent obligations.**

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and what about the blogger?

- If a blogger portrays her or himself as an expert or having unique qualifications to make laudatory statements about the advertiser's product or service, blogger may have independent responsibility.
- So what does that mean for a corporate blogger like the CEO?



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## Key Points to Remember

Advertiser is responsible for claims of authorized bloggers

Obligation to provide guidance and correct errors

Full disclosure of relationship key



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# Rise of Mobile: A Historical View of Your Tax Dollars At Work



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# Mobile: Change is in the Airwaves

Wireless devices add the combined utility of the fixed telephone, Internet, computer, credit card, game console, library, radio and TV, to name only a few.

Because of its multi-functional characteristics and reach, and because mobile devices will continue to cannibalize some or all of the features and functions of an unparalleled number of other applications & inventions, these devices will impact our lives in more ways than we can imagine. . . . .



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## Web Technology, GPS, RFID & Mobile Increases Privacy Concerns Over Behavioral Advertising

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



# Carrying Vast Amounts of Information About Us



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# Mobile Advertising & Marketing

Mobile is

- Personal - always attributable to one individual
- Pervasive - one screen unites everything
- Instant - here and now
- Local - it goes where you go

**First thing you check when you wake, last thing you check before going to bed!**

**Within reach over 80% of every day ! !**

**92% of owners cannot get through a typical day without using their mobile phone**

Source: The Mobile Life, YouGov Survey 2006

Why do you think they call it a 'sell' phone ?



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# Mobile Advertising & Marketing

## Which Rules Apply?

- Federal Trade Commission Act
- Federal Communications Commission
- State Consumer Protections, Unfair and Deceptive Acts or Practices Statutes, Privacy & Identity Theft Statutes
- Controlling the Assault of Non-Solicited Pornography and Marketing Act ("CAN-SPAM Act") and the corresponding Federal Trade Commission ("FTC") rules
- The Telephone Consumer Protection Act of 1991 ("TCPA") and the corresponding FCC rules
- Do-Not-Call Rules
- Customer Proprietary Network Information ("CPNI") rules
- Industry Guidelines - *e.g.*, ANA, IAB, MMA, DMA, AAAA, CARU, CTIA.

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# Types of Mobile Ads

SMS



SMS Ads

WAP



Wap Display Ads

Search



Search Ads

App Display



App Display Ads

Push



Push Notifications



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## OMG! Ads Trgt TiVo Usrs + Txtrs



Unilever

**Marketers Try to Be 'Kewl' With Text-Message Lingo**

**Unilever's OMG Moment**

“Brace yourself, big marketers are getting hip to text-message lingo. In ads that begin in two weeks for a new line of Degree deodorant for teen girls, Unilever is highlighting “OMG! Moments.”

The Wall Street Journal, April 3, 2008



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# Today's Demographic



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# Why You Should Care



- If you want to understand the latest trends in local, geo-location and mobile marketing
- If you need to drive offline purchases & behavior
- If you have regionally differentiated products
- If your message needs to be localized



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"Smartphone sales to pass computers in 2012"

Source: Morgan Stanley

"By 2013, mobile phones will overtake PCs as the most common Web access device worldwide"

Source: Merrill Lynch report

"In 2011, more than 85% of the handsets shipped globally are expected to include a browser"

Source: Focus.com

By 2012 it is estimated there will be **5.9 billion** cell-phone contracts globally that are GPS enabled and can locate you anywhere.

**Foursquare** the location-based social networking website had 1.3 million users in June 2010.

Next-generation cell-phones will deliver **augmented reality** displays as standard.



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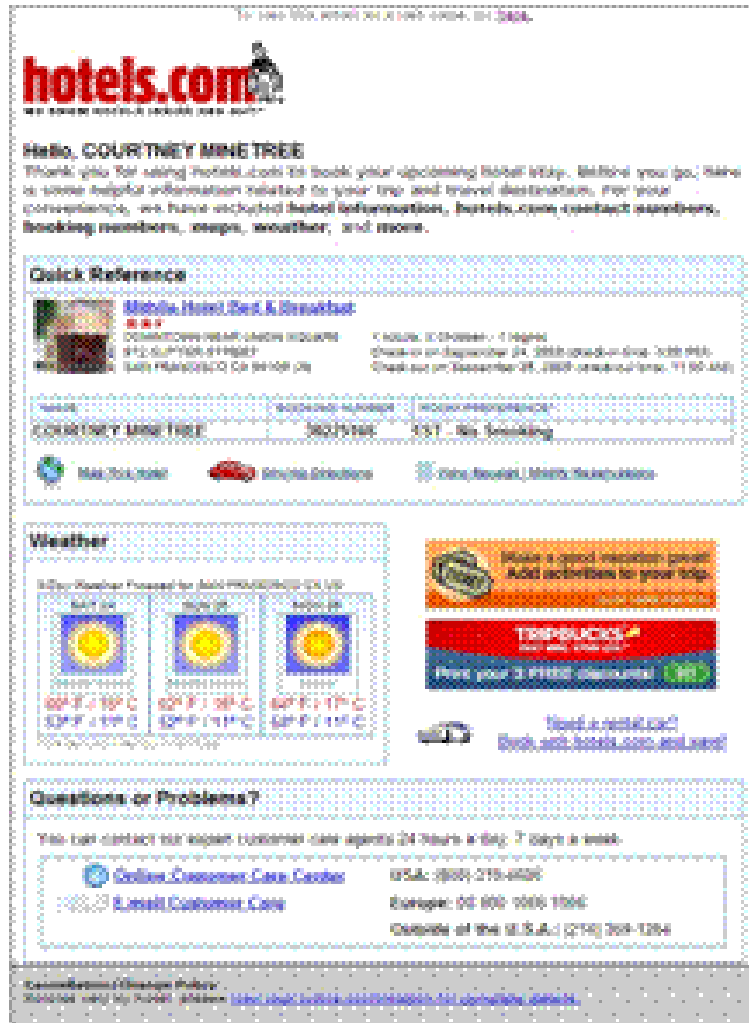
# We've Seen Mobile Services



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## Hotels.com



A key element of the program includes a **unique phone number tied directly to specific emails...**

When someone clicks a link in the email, the phone number that appears at the top of **all subsequent web pages on the site is this special call center number specific to that email.**



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# And of course, the 'Apps'

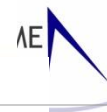
## Gartner: App Sales To Top \$15 Billion In 2011

Mark Walsh, Jan 26, 2011 02:37 PM



Mobile apps are here to stay, according to a new forecast from Gartner. The technology research firm projects app store downloads worldwide will more than double this year to 17.7 billion. App revenue in 2011 will hit \$15.1 billion, up from \$5.2 billion in 2010. By 2014, app downloads will jump to 185 billion.

"Many are wondering if the app frenzy we have been witnessing is just a fashion, and, like many others, it shall pass. We do not think so," said Stephanie Baghdassarian, research director at Gartner, in a statement. While Apple's App Store gave rise to the app explosion of the last two years -- and last Saturday [announced](#) its 10 billionth download -- alternatives are gaining [traction](#).



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# Starbucks and Foursquare



Starbucks is one of the first major retailers to exploit location based advertising

This type of targeting is marketing nirvana, where consumers can receive targeted and timely advertising that is actionable and immediate.

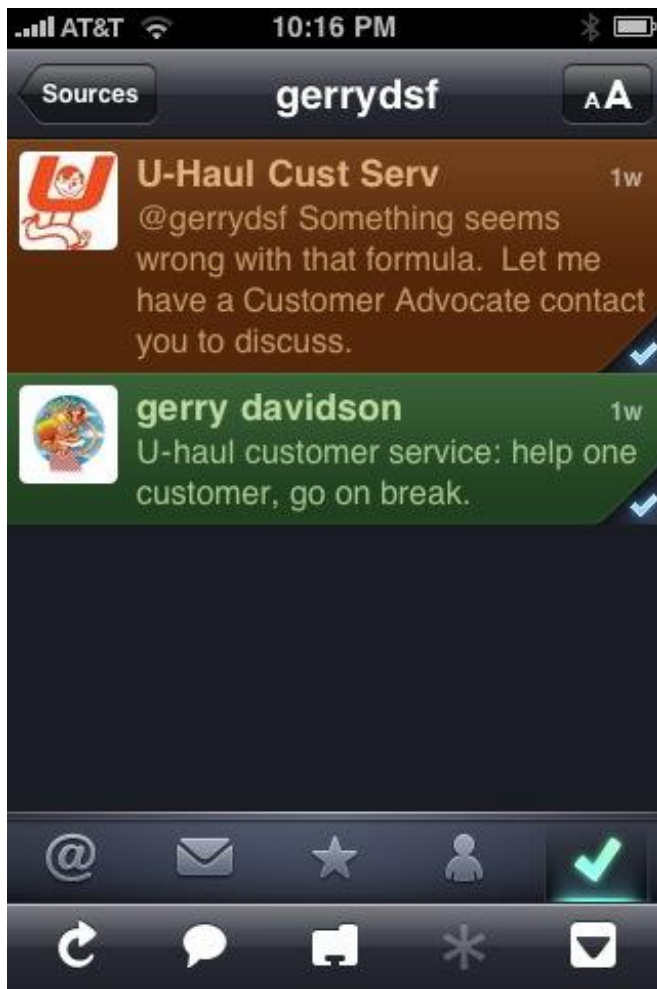
May 2010



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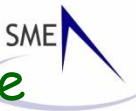
# Mobile: As Local as it gets



Customer service as marketing



Direct consumers to purchase



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# Sealy in Bed Tagger App

## Sealy® In Bed Tagger App

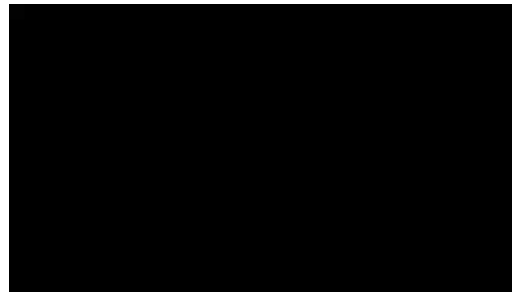
From: Sealy Mattresses | Feb 4, 2011

"Slippery when wet... in bed." Transform everyday objects, moments and photos into the ultimate fortune cookie joke. Quickly snap tagged pics and pass them on to your friends and social universe.

Silly? Yes. Life affirming, probably not, but we challenge you to capture an image that doesn't work...in bed.

Go forth and remember, whatever you do in bed, Sealy supports it.

Download the app here: <http://www.sealy.com/mobile/iphone.aspx>



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# Deceptive Advertising

## COMPLIMENTARY RINGTONE

(OR REALTONES, MONO RINGTONES, POLY RINGTONES, WALLPAPERS, JAVA GAMES, SCREENSAVERS, ALERTS) WITH PAID SUBSCRIPTION FROM \$9.99/MONTH\*

ENTER YOUR MOBILE NUMBER

▶▶ [ ] - [ ] - [ ] ◀◀

**SUBMIT**

3 Easy steps

- 1 Enter Your Number
- 2 Confirm Your PIN\*
- 3 Choose your content



AT&T | verizon wireless | Sprint | CELLULARONE | NEXTEL | boost mobile

alltel | CENTENNIAL WIRELESS | Cincinnati Bell

**\* TERMS OF SERVICE**  
Complimentary Ringtone offer is only for compatible handsets on AT&T, Centennial Wireless and Sprint PCS. This is a Ringtone Viva Value Club 2 Poly Ringtones, Joke subscription service. By signing up for this service and by entering your personal PIN Code which will be sent to the cell phone number supplied by you on this website, you acknowledge



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# Not Clear or Conspicuous

It's all About Your Cell!

All the top downloads for \$9.99/m

## Download Ringtones to Your Cell Now! Get Realtones!



**Enter Your Cell Number:**

 -  - 

**Please agree to the Service Terms**

[I agree to the Terms and Conditions](#) I also understand that standard messaging rates do apply when receiving my PIN. You may qualify to receive 10 complimentary ringtones for the first month and your service will continue at nine dollars and ninety nine cents per month. Cancel at any time and keep all my downloads. Please note that you must be 18 or older in the state of Florida to participate in this offer.

Minimum age restrictions may apply. You must be 18 or older to participate in the following states: Florida



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# Clear & Conspicuous - 3 Zones

## 3 Zones

- All zones must be “above the fold” / visible to consumer w/o scrolling
- All font types must conform to Web Standard size equivalencies
- W3C Color Contrast standard applies to all disclosures in all zones (125 min.)
- All disclosures must be visible at all times throughout the order path

### **Zone 1 - Price and Term (\$9.99 per month)**

- Must be disclosed entirely within 125 pixels in any direction from the cell-submit field and the P.I.N. code submit field.
- 12pt. minimum font size
- Must be disclosed in numerical format 0-9 and include \$
- For Non-Google Compliant Pages, Price disclosure must not contain any other text except price and term (\$9.99 per month)

### **Zone 2- Types of Content (Ringtones and Other Text Services)**

- Disclosure no greater than 20 pixels from Offer Description (Get 10 Bonus Ringtones)
- Other Text Services no smaller than 50% of font size of the Offer Description (Get 10 Bonus Ringtones) Minimum font size is 20pt.

### **Zone 3 - Age / Other T's and C's**

- Age description must be above T's and C's. Minimum 12pt. font size.
- 3 lines of other T's and C's must be visible above the fold.



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# Clear & Conspicuous - Contrast

**Colour Contrast** Based on the formula created by the World Wide Web Consortium (W3C).

$$((\text{Red value} \times 299) + (\text{Green value} \times 587) + (\text{Blue value} \times 114)) / 1000$$

Difference in Brightness

175	<p><b>\$9.99 per month</b></p> <p>\$9.99 per month</p> <p>Red - #b4041c Blue - #d2f7f8</p>	<p><b>\$9.99 per month</b></p> <p>\$9.99 per month</p> <p>Yellow - #f9f284 Green - #1a5308</p>	<p><b>\$9.99 per month</b></p> <p>\$9.99 per month</p> <p>Grey - #999999 Black - #000000</p>
150	<p><b>\$9.99 per month</b></p> <p>\$9.99 per month</p> <p>Red - #fca2a2 Blue - #02333f</p>	<p><b>\$9.99 per month</b></p> <p>\$9.99 per month</p> <p>Yellow - #f1eca3 Green - #3c6031</p>	<p><b>\$9.99 per month</b></p> <p>\$9.99 per month</p> <p>Grey - #999999 Black - #000000</p>
125	<p><b>\$9.99 per month</b></p> <p>\$9.99 per month</p> <p>Red - #ff0000 Blue - #96dbf5</p>	<p><b>\$9.99 per month</b></p> <p>\$9.99 per month</p> <p>Yellow - #faee2a Green - #327d1b</p>	<p><b>\$9.99 per month</b></p> <p>\$9.99 per month</p> <p>Grey - #999999 Blue - #0000ff</p>
100	<p><b>\$9.99 per month</b></p> <p>\$9.99 per month</p> <p>Red - #e7364f Blue - #84f5f9</p>	<p><b>\$9.99 per month</b></p> <p>\$9.99 per month</p> <p>Yellow - #f5ed6b Green - #41ab20</p>	<p><b>\$9.99 per month</b></p> <p>\$9.99 per month</p> <p>Grey - #999999 White - #ffffff</p>
75	<p><b>\$9.99 per month</b></p> <p>\$9.99 per month</p> <p>Red - #fd4646 Blue - #b4cfd6</p>	<p><b>\$9.99 per month</b></p> <p>\$9.99 per month</p> <p>Yellow - #faf386 Green - #75c05e</p>	<p><b>\$9.99 per month</b></p> <p>\$9.99 per month</p> <p>Grey - #999999 Red - #ff0000</p>

**\$9.99 per month**

\$9.99 per month

BLACK on WHITE has a colour difference of 255 (maximum).



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# NBC's "Deal Or No Deal" Play At Home



Play along with the show from the comfort of your home for a chance to win \$10,000. Simply watch "Deal Or No Deal" on NBC and then **text your chosen case number to 59595**, before the case is opened. The winner will randomly be chosen from those that correctly picked the Lucky Case. You can enter up to ten (10) times per show. **There is a charge of \$0.99 per entry or enter online for free.**



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# Nike ID - SMS Collection



- Nike erected a large, interactive billboard in Times Square and passers-by could use their cell phones to text in their own custom design and receive a free pair of Nike IDs.
- Individuals 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 by their design on the billboard as they were by the free footwear

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# QR Tagging



QR Codes turn your phone into a bar code scanner. These codes can not only be used on retail merchandise tags and clothing imprints but also on billboards, print and even web-based advertising



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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.



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# . . . And now mobile social climbing?



Given that studies consistently show consumers trust other consumers - their peers - more than advertisers (and government) when it comes to product and service recommendations, does it come as any surprise that 'influence' peddling has now been extended to consumers.

SME

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## Legal's Do's and Don'ts

- Obtain Express Consent to contact and to order;
- Don't assume consent received by others is sufficient consent for you (co-sponsors, co-promotional partners, lead generators, co-reg partners, etc.);
- Scrub against DNC/Neustar/Internal;
- Provide an opt-out;
- Use links to include additional disclosures;
- Prominently display recurring charges;
- Provide *bona fide* value for premium SMS entries;
- Don't overpromise.



# Contracts – App-etite for Risk?

Does your contract

- restrict the developer from doing the exact same thing for a competitor? Do you care?
- require complete, verifiable delivery of the code prior to completion of payment? Why not?

Who is responsible for upgrades, enhancements, fixes/ patches, compatibility with future operating system releases?

Should you worry about operating system interoperability, device porting, warranty issues, distribution, app restrictions? Even if, on the distribution side, it may be easier and more cost effective for the developer to register the app with various platforms (they may have a pre-existing relationship with retailers/aggregators) in whose name is the registration? Remember the domain name wars? (Soon to get worse)

Is the app a download that sits locally or a hosted app? If so, who is providing the hosting? If hosting is provided by a third party, do you have an SLA?

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# Contracts – App-etite for Risk?

Do your terms and disclosures match the requirements applicable to your license (e.g., EULA)?

Do you have a development, deployment and support compliance policy and program to ensure integrity (e.g., what would a regulator, a court think is reasonable?)

Do your contracts give you the rights you think you have (or want) – different platforms have different requirements and different contract terms?

- Liability
- App Stores
- Deep pockets or judgment proof – follow the money

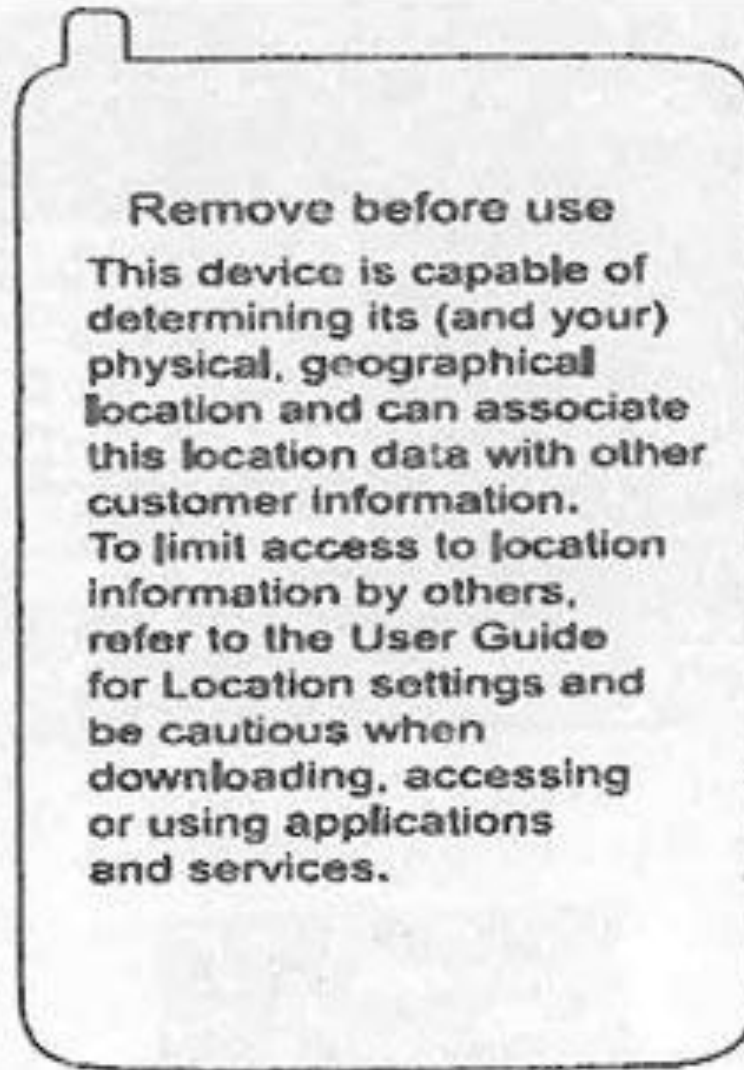
Who owns the code/designs, both what makes it in & what falls to the cutting room floor.

Who owns data generated from or by the app – user information, usage statistics, metrics, sales figures?



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COURTESY: VERIZON

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# Is there really an 'app' for that?



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# What Should You Do Now?

- Learn the platforms
- Get into the conversation
- Run controlled experiments
- Review site terms and conditions
- Listen and learn
- Bring lawyers into the conversation

“Don’t try to do anything online that you wouldn’t do offline.”



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# What Should You Do Now?

Audit your company's social media, online & mobile programs:

- What are you doing?
- Do you have any customized pages/apps?  
Yes? Do you have special contracts? Should you?
- What are your employees doing?
- What are your competitors doing?
- What are your customers doing?



## Got a Policy?

If you don't, adopt a social media, mobile app policy for internal & external communications.

- Keep you on strategy;
- Set rules for what you can prevent; and
- Both protect and enable.

Remember, policy sometimes sound strict and contain legal-sounding terms. That's not inherently a bad thing, so long as the objective is clear: to enable your employees, contractors, suppliers and even customers, to participate online in a respectful, relevant way that protects the reputation of your brand, your company and follows the letter and spirit of the law.

# Top 10 Brand Guidelines

1. Be transparent
2. Tell the truth.
3. Stay on topic and be respectful.
4. Don't violate privacy, confidentiality, other policies or the rights of others.
5. It's OK to provide your perspective, but don't stray from your expertise.

6. Be polite, even when disagreeing with another. Ask for help.
7. Be diplomatic about competitors. Have facts and permission before you engage.
8. Never discuss legal matters, litigation, regulation or parties in litigation with your company.
9. Never discuss a crisis – always refer comments to the appropriate office.
10. Always choose your words and actions carefully – the Internet NEVER forgets.

# Lessons Learned

- You can't control the online or mobile conversation;
- People trust each other more than they trust advertisers and this trend is increasing;
- Social media is effective at building trust and people willingly provide information to those they trust;
- Customers can be passionate advocates, as well as disgruntled detractors;
- Social Media strategies can be implemented with limited resources – but require planning, consideration, teamwork and attention; and
- If done right effective use of social and mobile networks can add value to your brands and contribute to the bottom line. If done wrong, well . . .

just don't break any guitars!



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# Resources

ReedSmith *Serving Clients in a Digital World*

January 2007  
Volume VI, Number 1

## Legal Bytes

**Advertisers Online and on the Frontline**

New York's Attorney General has just settled actions against Priceline, Travelocity and Cingular Wireless for promoting products and services using "adware"—the first time a law enforcement agency has held an advertiser responsible for ads displayed through adware.

These settlements require the advertisers (and affiliates—presumably sales agents and promotional partners) to give consumers full disclosure of any adware (including adware bundled in other software); ensure advertising has a conspicuous, identifiable brand; obtain consent from the consumer to download and allow the adware to operate on the computer; and make it reasonably simple for a consumer

Light Bytes  
"To laugh often and much, to win the respect of intelligent people..."

[www.LegalBytes.com](http://www.LegalBytes.com)

# Legal Bytes

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[www.AdLawbyRequest.com](http://www.AdLawbyRequest.com)

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**Adlaw News**

[Group Releases Report on TV Violence; Urges Advertisers To Weigh In](#)  
January 29, 2007 - The advertising industry—which regularly takes a beating from consumer groups for a whole host of reasons—is now being prodded to go beyond focusing on the content of commercials to take the lead in curbing violent television programming.

**Adlaw Features**

[Douglas Wood, Lead Negotiator for the Joint Policy Committee on Broadcast Union Talent Relations chairs panel on the 2006 SAG/AFTRA/JPC Extension Agreement](#)  
January 30, 2007 - At the 3rd annual ANA Advertising Law & Business Affairs Conference in New York City on January 18, Douglas Wood, General Counsel to the ANA and the advertising industry's Lead Negotiator opposite the unions representing actors, addressed the revisions of the

**Adlaw Forum**

[The Prozac Case](#)  
by Gerhard W. Volz  
[Read more](#)

Ratiopharm España, a Spanish manufacturer of generic pharmaceuticals, challenged

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## ReACTS

Reed Smith Advertising Compliance Team

News and updates on the law and regulation of advertising and marketing

ABOUT SERVICES CONTACT EVENTS RESOURCES ARCHIVES



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## White Papers



- **Cloud Computing:**

[www.reedsmith.com/cloudcomputing](http://www.reedsmith.com/cloudcomputing)

- **Social Media:**

[www.reedsmith.com/networkinterference](http://www.reedsmith.com/networkinterference)

- **Coming Soon:** *Mobile Marketing*



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# Ode to the LinkedIn IPO – déjà vu



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# Thank You !



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# Questions ? ?

SME Digital Forum

May 25, 2011