Back to the Digital Future: Updating Media Buying Agreements for New Advertising Outlets

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In the days before the expansion of media, when the options available to an advertiser encompassed billboards, radio, print, and stretched to television if the budget was big enough, there was no complexity involved in developing an agreement with your media agency. There was advertising and it was carried across the media that you chose for the fee that was charged at that time. Data was minimal. Distribution was localised. Campaigns largely carried the same message across all media.

The massive growth of media into what is now known collectively as digital media (encompassing the web, social and mobile in particular) and digital media's ability to react, distribute, and interact with consumers in ways that were not thought possible even 20 years ago, has meant that the simple act of contracting for a brand campaign is not as 'simple' as it once was. There is however one area where these media campaigns have remained unchanged – many brands and agencies are using agreements that are more suited to the 1997 media landscape than to the ways in which brands create content and communicate with their potential customers in 2017.

A standard advertising agreement contains terms that will, at a minimum, include the media, the frequency, the placement, the size, and the term. Fees will traditionally be based on a rate card that differentiates based on the potential audience for that placement – for example, for different times of the day or more desirable placement in a magazine. It was possible that if a media plan was set in stone, the fee could be readily determined at the outset of the agreement.

Growth into New Ideas

As advertising progressed away from the standard model of placing a static advert in a particular media, new ways of promoting brands were developed. One early iteration, still used today, was the placing of a product within video content (notably music videos; remember Michael Jackson holding the can of Pepsi?). Product placement progressed to advertorial content – a brand campaign that was completely integrated into editorial content, ideally in a seamless manner. This was eminently suitable to print content and segmented television programs and for some time was widely used within radio. In Australia, for example, this led to investigations by the authorities in the 1990's, as it became increasingly difficult to differentiate between the editorial and the paid commentary.

At the time, agreements started to integrate new commercial terms that addressed the way in which these campaigns were delivered. Suddenly, we focused on 'seconds on screen' or 'number of brand mentions', albeit still accompanied by the usual inclusion of territory, number of spots and term.

Different Campaigns, Different Deals

Digital media has encroached seamlessly into our media consumption and with it, our exposure to brands and advertising has also altered in some ways. There has been a significant expansion from traditional media advertising and it has been embraced by brands worldwide. Certainly brands continued to seek familiar styles of advertising, with early digital advertising agreements referring to banners, pop ups and crawls, including references to the all important frequency and position. Such agreements might also include reference to the type of websites that would be targeted – perhaps ones that were of interest to male youth in Kuwait, or housewives in Saudi.

However, as the consumers distaste for this style of content became evident, and the media itself grew in audience and most importantly bandwidth, advertising became more diverse and cleverly tailored to the new environment. Native advertising developed out of the concept of advertorial, but was effected in a much more subtle manner. The content or editorial was paramount, albeit that the brand was subtly noted within the content at some point.

Native advertising now takes many forms. It might include search advertising, when advertising appears directly alongside content sites that are thrown up in an online search. Social media sites now contain a plethora of 'promoted spots' that are generally produced by the publisher of the site (in the case of closed platform content) or by the brand (for open platforms or hybrids). In either platform, they are intended to retain the look and feel of the material around the spots. They appear to be seamless, a perfect integration of brand with editorial.

Clearly, an agreement that is designed for the provision of native advertising for a brand cannot be the same as an agreement for a banner ad. For example, an agreement for placement of advertising in a closed platform could include agreement as to demographic targets and geographic targets, but they will also need to contain a mechanism for the creation of the content itself, which would never have been included in an agreement for, say a banner ad. A banner ad would simply have been created by the brand and then provided to the publishing site. For native advertising, a key element for the brand campaign is the content itself, which may include more than one piece of content and which will most likely be created by the publisher or its contractors. So this agreement has to include not only references to the sought after demographics but must include direction as to the type of content and perhaps even, for some brands, an approval process for it to maintain control over the way that the brand is used. As an aside, the manner in which the brand is used – number of mentions, logo use or not – can still be a point of contention for brands who always want more than publishers are happy to deliver. It is important for brands to understand that this form of advertising is generally only effective if it contains minimal and subtle brand inclusion.

True Content Marketing

Content marketing has found its true place with the growth of digital marketing and, in particular, the ability of the internet to carry larger pieces of content directly to consumers. Content marketing, even more subtle again that native advertising, is a distinctive form of marketing that requires a brand to provide free content to the public in a manner that is designed to create a relationship between a potential customer and the brand. By creating content that may be valuable to the targeted consumer, the brand is anticipating a return by way of brand loyalty at a time when the product might be required. Interestingly, with content marketing, the focus is usually on a subject that is entirely removed from the brand itself, and may not mention the brand at all. The commonly cited example is the Red Bull content. It is clearly looking for a particular demographic but does so without ever discussing the actual product itself. Red Bull is now one of the most recognised beverage brands in the world due in a large part to this content marketing strategy.

The agreement required to establish this form of marketing is distinctly different to any other form of media buying agreement, most notably because the focus is entirely removed from the "advertising" element of the campaign and is focused on the content alone. Because of this, an agreement for content marketing should be treated as having two distinct components. It resembles a production services agreement in that it needs to include details about the creation of the content itself such as the hosts, the budgets, rights clearances and ultimate copyright ownership. But these agreements still require the essential media distribution elements – where is the content being placed and by whom. In addition, any brand would certainly require clear KPI's regarding demographics and targets: Who is the brand trying to reach with this content? How often? What data is the brand trying to create? How will it be analysed? This is going to be a more complex agreement than the industry was using for banner ads, and even more complex than agreements for native advertising. Content marketing campaigns are multi-layered, and require careful consideration as to timing, content, tone and creative direction. The agreements that are created need to be similarly well crafted.

The days of 'simple media' agreements are now long behind us. As media plans have diversified into the various media streams that are now available, your agreement must be reviewed and updated to ensure that all parties are clear as to the scope and intentions of the brand in relation to the campaign on an ongoing basis. To do otherwise is just so 1997.

Al Tamimi & Company's Technology, Media & Telecommunications team regularly advises on advertising and content matters both on-line and in traditional media, acting for producers, media agencies and publishers. For further information, please contact Fiona Robertson (f.robertson@tamimi.com)