

Advertising Forum

New Media Issues in Contracts

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The business of relationships.

ANA

Leading the Marketing Community

1. What is New Media?

- Intuitive definition
 - How it's transmitted?
 - Digital vs. analog
 - How it's received?
 - Wikipedia says...“Any digital media production that is interactive and digitally distributed, making the distinction between new media and media on the basis of it's accessibility and transmission and its interactive nature.”
- SAG's definition
 - Not traditional broadcast
 - Not Internet
 - What's left?



2. Usage for New Media

- Endless possibilities
- Ask for the world
 - “In all media whether now known or later devised...”
 - Broadcast is not enough
 - “Any transmission through digital or electronic means”



3. Ownership in New Media

- Who creates the content?
- Who owns the content?
- Who controls the content?
 - New media providers (common carriers, online service providers, cable companies)
 - Content creators (ad agencies, freelance employees, users)



4. Compliance with DMCA / Safe Harbor Provision

- Resources
 - Must not have actual knowledge that the material/activity is infringing and must not be aware of facts/circumstances from which infringing activity is apparent
 - Upon obtaining knowledge/awareness, must act expeditiously to remove, or disable access to, the material/activity
 - Personnel, Programs and Systems



5. Monitoring New Media

- Advertisers want to get what they paid for
 - Media weight
 - Accuracy
 - Make goods
- Monitoring services
 - M:Metrics, Nielsen, comScore
 - Surveys vs. electronic tracking
 - Privacy issues
 - Technology issues



6. Functionality for New Media

- Project specifications
 - Acceptable programs and systems to be used to ensure functionality
- Guarantees and warranties
 - Acceptable interruptions - duration, number
 - Threshold for breach



7. Privacy and Data Security in New Media

- Is personal information being asked for and shared in the new media platform?
 - On a cell phone or blackberry
 - On a display in a taxi cab or at an ATM machine
 - In video games
- How is the personal information being protected?
 - Same data security breach requirements apply - vary by state
 - “Commercially reasonable standards”
 - Third parties should guarantee the same



8. Added Value Opportunities in New Media

- Is the creative flexible enough?
 - Format
 - Impact



9. Music Rights for New Media

- Are you covered?
- Downloads and ring tones
 - Internet use is not enough
- Internet use
 - ASCAP's jurisdiction is U.S. only
 - Rest of the world



10. Talent in New Media

- Commercial message
- Non commercial message
- Hybrid
 - In program placement
 - Product placement in movie that is then shown via new media