

NATIVE ADVERTISING: INFORMATION OR ILLUSION?

Executive summary
June 2018

Native advertising is broadly defined as advertising that adapts its form to the platform hosting it. It aims mainly at blending in the background, to be accepted (even appreciated) more easily by consumers. In the news media, native advertising takes the form of a journalistic article, and is occasionally called editorial advertising.

Native advertising is currently a popular marketing method among advertisers. Given their need for funding from advertisers, the news media adapt their advertising offer to them. The advertiser can at times: 1) sponsor an editorial article, without getting involved in or influencing the content; 2) be involved in writing editorial advertising, in concert with a journalist or a marketing expert hired by the news organization; or 3) write its own content and publish it in an advertising space on the news organization's website. Those three types of advertising offers have in common a visual integration of content on the news organization's digital platform, as well as the use of the page layout, normally reserved for journalistic content.

Various methods are used by the news media to distinguish advertising content from journalistic content. A mention of the advertising nature, beside the content or the hyperlink leading to that content, can inform the reader of the content's commercial nature; that disclosure's effectiveness will depend on the wording chosen and its location. Several other methods are used for alerting the reader about the content's commercial nature: visual differentiation (of the content or hyperlinks), the display of the advertiser's logo, the advertiser's name, a notice regarding the respective involvement of the news organization and the advertiser in writing the content.

While using multiple methods to attract the reader's attention and notify him of the commercial nature of content is more effective than using a single method, disclosure of the advertising nature should always be explicit, clear and unambiguous. However, our field survey revealed that good practices are the exception rather than the rule.

Despite its popularity, using native advertising in the news media is controversial within the news industry, because it involves serious ethical problems. First, the erosion of the impenetrable wall that, in the news media, must separate editorial from advertising content exposes the news organization to a potential conflict between its economic interests, the advertiser's interests and the public interest, and thus could imperil the independence of journalists and undermine public trust in them.

From the consumer's viewpoint, it's certainly difficult to recognize advertising content that takes a native form, despite the disclosure mechanisms currently used by the news media. So the reader can be manipulated by incentives that take the form of a journalistic article. But there's

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worse: The public has a constitutional right to independent and quality information, a foundation of democracy, which is threatened.

Like any advertising, native advertising is regulated by the *Competition Act* and provincial consumer protection laws, which prohibit misleading representations and advertisements. A broad reading of the general provisions would theoretically allow legal control of native advertising, at least with regard to non-disclosure of or misleading information about its content. And yet, the application of those laws to native advertising remains uncertain, and they don't appear well adapted to the digital environment.

In addition, ethical standards have been adopted by self-regulatory agencies and associations originating from both the news and marketing industries. We mainly find a separation between editorial and advertising content, as well as a prohibition against disguised advertising. However, those voluntary standards don't appear sufficient for ensuring independence or transparency.

Our field survey reveals a misunderstanding of legal standards by the news media, and an ineffectiveness by self-regulatory agencies in controlling those who adopt reprehensible practices. Indeed, although some news organizations opt for good disclosure practices, we found the practices of most of the fifteen Canadian news organizations analyzed to be reprehensible.

Our consultation of the stakeholders revealed certain points of consensus. Notably, all agree on the importance of transparency and of the distinction between journalistic information and advertising. Moreover, the stakeholders generally agree with our identification of exemplary and reprehensible practices. Still, the idea of imposing a legal and regulatory framework for native advertising divided the stakeholders.

Our analysis of foreign legislative models identified the existence of interesting legislative interventions. Notably, Belgium imposes an obligation to write "advertisement" near advertising content, and France applies the presumption of a misleading practice regarding editorial content in the media when disclosure of the advertising nature is inadequate. In addition, the agency charged with applying the law against misleading advertising in the United States, the *Federal Trade Commission*, has already taken concrete actions regarding native advertising, given its prevalence.

Lastly, based on the field survey and our analysis, we estimate that tightening standards and intervening legislatively in matters of native advertising have become necessary, both to establish a standard framework for disclosing the advertising nature of media content, and to preserve in practice an impassable barrier between editorial and advertising content.

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