

A FOOL FOR A CLIENT

If you're not careful, CG content can lead to risky business by Gonzalo E. Mon

Running promotions that involve consumer-generated content seems like a win-win. Users spend time engaging while creating the content and then, hey — free content. But the practice also poses challenges, because companies may be held liable for the actions of consumers, as well as their own actions. Fortunately, there are ways to reduce these risks.

Libel to Sue

Although companies can ensure their own content complies with applicable laws, it is harder to ensure that consumer-generated content is compliant. Submissions may contain material (such as music) that violates a third party's rights. If a third party finds that its rights have been violated by content posted on the sponsor's Web site, that party may take action against the sponsor.

The first line of defense is a set of disclosures which state that entrants may not submit content that contains, for example, elements that violate a third party's copyrights or trademark rights. You may also rely on laws like the Digital Millennium Copyright Act and Communications Decency Act that offer some protections against lawsuits related to content posted by others. The limits of these protections are currently being tested in lawsuits involving consumer-generated content, however.

Winner's Circle

Many promotions involving consumer-generated content have been contests in which prizes are awarded to winners. Keep in mind that although it may be lawful in most states to require a purchase for a contest, there are some states with

broadly worded statutes that could restrict such a requirement. Therefore, you should evaluate these restrictions before offering any promotion in which consumers have to pay money. It is important to ensure contest winners are selected on the basis of skill (as opposed to chance). It may be easy to do this if you select winners, but it's harder to ensure skill controls with public voting, because members of the public may try to manipulate the results. This often results in complaints and forces sponsors to engage in damage control. You can reduce risks by combining public voting with internal voting and limiting the number of times a person can vote.

Planned Promotionhood

Many promotions don't run smoothly because sponsors fail to identify risks and plan accordingly. You can reduce your risks by taking the steps outlined above and responding promptly to complaints. Also keep in mind that because these promotions are relatively new, there are still a lot of legal uncertainties. Pay close attention to changes in the legal landscape and be prepared to respond quickly.

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As news and media outlets struggle to support their content creation in a fragmented landscape, how does Current TV's model fit into traditional news media?

I don't know that I can answer that directly, because we are not a traditional news outlet, so I don't understand what they are thinking. We are flattered to see that many of the innovations we created have been adopted in ways like iReport [from CNN]. Our own journalism group, called the Vanguard Journalists, are 12 interesting young reporters who will go to places we don't want VC² producers to go — to Somalia or into the heart of ethnic street gangs in Russia. And one of our reporters, Kaj Larsen, is an ex-Navy Seal and he had himself waterboarded. That piece not only

generated significant press but a ton of commentary about it, and that commentary was fed back to the network. So we have run his piece on air and frequently we will run it with a counterpoint that says waterboarding is a legitimate form of interrogation. For us, this is the heart and soul of what we do. It is not about economic efficiency. It is about making sure that the voice of our audience is accurately and fairly represented, and understanding that the editorial point of view has to be shared and collaborative. We are about a conversation with our audience. We want that conversation in the pods they create. ■