



Native Advertising: How Life Sciences Companies Can Manage The Associated Regulatory and Competitive Risks

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Native advertising. Most of us have seen it. Some of us do it. What is it? Quite simply, it is advertising that is perceived and experienced quite like the content around it. For example, native advertising can be a one-page “article” in an outdoor living magazine about a new allergy nasal spray targeted at avid hikers; the ad is typically sandwiched between similar content. The goal is to provide the consumer with an interesting and seamless experience while having an opportunity to promote the advertised goods or services. And native advertising is not just for print – you can find it online, on mobile devices, in your social media feed, in video – pretty much everywhere.

While some marketers conspicuously identify native advertising as just that, an advertisement, others prefer to not be so overt, perhaps out of fear that consumers will flip the page or swipe left. And that is where companies should be careful. The Federal Trade Commission has recently issued an Enforcement Policy Statement on Deceptively Formatted Advertisements because it believes that unidentified native advertising is deceiving consumers. For example, an inconspicuous native ad about a cough-cold syrup product in an online news feed may mislead a consumer into believing that the ad is an independent review by a journalist, and the consumer may unwittingly give greater weight to the ad. The FTC’s new guidance, some believe, is overly prescriptive. And while ad publishers may not like the direction the FTC is headed, advertisers must be careful to ensure their native advertising does not run afoul of the guidance.

Further, now that there are clear boundaries around native advertising, it may become popular in mainstream advertising fields. And as the volume of such advertising builds up, companies may become increasingly wary of how their competitors use native advertising to gain market share. Ads that are not conspicuous about their commercial nature may be viewed as unfair and could invite a lawsuit on grounds of false advertising and unfair competition.

Likewise, while FDA hasn’t issued specific guidance on native advertising, we know that the agency has its own rules and requirements to ensure life science companies distribute only on-label and truthful, not misleading information. We have seen pharmaceutical and medical device clients use, for example, social media, advertorials, and White Papers to present marketing messages, but FDA can, and will, taken enforcement action against a company that runs afoul of compliance.

So, if you want to learn more about how to walk the straight and narrow with native advertising (and here’s our plug that makes this article a native ad itself!), please join us for our upcoming webinar titled [“Blurred Lines – How Life Science Companies Can Keep The FTC, FDA, And Competition From Challenging Their Native Advertising”](#)¹.

¹ <https://event.on24.com/eventRegistration/EventLobbyServlet?target=reg20.jsp&referrer=&eventid=1127779&sessionid=1&key=1CEAB7B1FC11459D4691E1F03553E963®Tag=&sourcepage=register>

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