

Top legal issues for 2007

By Douglas J. Wood, *Senior Vice President and Chairman, Global Advertising, PricewaterhouseCoopers LLP*

10 brands now in Second Life

1. American Apparel
2. Scion
3. Pontiac
4. Starwood's Aloft brand
5. Duran Duran
6. AKQA
7. Reuters
8. American Cancer Society
9. Sun Microsystems
10. NBC Universal (with tree at Rockefeller Center)

By Bob Liodice, *Executive Vice President*

10 ways marketing will change in 2007, according to ANA

1. **CONSUMER IN CONTROL:** Marketers will abandon their historic "command and control" model of brand building in favor of a truly interactive dialogue with consumers. Recognizing that consumers now have the power to control how, when and where they interact with advertisers, brand marketers will radically reinvent their approaches, putting the consumer in the driver's seat and unleashing a tsunami of interactive campaigns across all media forms.
2. **NEW AGENDA FOR AGENCIES:** Agencies will be turned on their heads, with their efforts increasingly tied to client brand performance. Marketers will expect them to integrate strategic brand management, creativity and innovative media management—and to deliver big, game-changing ideas.
3. **HAIL TO THE CHIEF:** The chief marketing officer will rise in stature as a C-suite player, not only serving as chief brand architect and marketing discipline integrator, but also as the enterprise's business-system innovator, organizational teacher/motivator and, most importantly, chief revenue builder.
4. **UNCONVENTIONAL OUTREACH:** Marketing will become increasingly unconventional—tapping into social networking, word-of-mouth, local events and more—to break through media clutter, consumer multitasking and the growing cacophony of marketplace noise. With the use of the internet, mobile and other new media forms, combined with the invaluable use of traditional media, marketers will find ways to reach and engage reluctant consumers and customers.
5. **MEDIA-BUYING METAMORPHOSIS:** Media buying and selling will be transformed. The old, antiquated ways of doing business will give way to new, automated, highly transparent processes, as demonstrated by the growth of online media-buying exchanges.
6. **LET THE FIGHTING END:** Government policymakers, consumer-advocacy groups and brand marketers will begin to find common ground, aligning business goals with public-policy needs. Marketers will increasingly embrace their role in helping to advance national priorities in such areas as diversity, education and health—proactively addressing such societal ills as illegal-drug usage, obesity, underage smoking, alcohol abuse and others.
7. **ORGANIZATIONAL OVERHAUL:** The marketing organization will undergo a top-to-bottom reinvention, providing better professional education and skill-building, with a focus on enhancing creativity, strategic alignment and, ultimately, brand stewardship.
8. **RESEARCH RENEWAL:** Research will become the next frontier in the accountability equation. Marketers will insist that macro measurements (Nielsen, Arbitron, ABC), marketing-mix modeling and brand-performance research become far more relevant to and aligned with critical brand-accountability goals. Marketers will be especially vocal in their desire for granular, brand-specific commercial ratings.
9. **BLOW UP THE BACK ROOM:** Archaic business systems and back-office operations will be overhauled to lower costs, increase efficiencies and redeploy nonworking dollars to hardworking, productive investments.
10. **CONTINUOUS MARKETING REINVENTION:** Continuous marketing reinvention will become the mantra of marketing executives and the cornerstone philosophy for successful brand building. Integrated marketing communications, marketing accountability and the marketing organization.

1. **WHAT'S UNFAIR MAY BE FAIR GAME**
The Children's Advertising Review Unit guidelines expand self-regulatory scrutiny to unfair advertising. In the past, CARU was restricted to deceptive advertising (although it stretched that jurisdiction considerably). With the party shift in Congress, the path is clear for 2007 to be the year Democrats get their wish and the FTC returns to engineering fundamental changes under the broad strokes and vagaries of what it considers to be fair, regardless of the truth of what is said. With the First Amendment? Maybe.
2. **THE YEAR OF THE SKINNY KID**
Self-regulation has spoken. In November top marketers in the fast-food and carbonated beverage industries pledged support of self-regulatory rules embracing more healthful advertising messages. But it won't be enough for the pundits. Not surprisingly, the Center for Science in the Public Interest, Consumer Alert and others wasted no time attacking the pledge. So the battle lines are drawn for a heavy-weight fight over waterweight kids. And we'll have ringside seats.
3. **THE SLIPPERY SLOPE ICES UP**
You've heard the old saw of the slippery slope many times—if you regulate one industry and suppress its freedom to communicate, it's just a matter of time before another industry receives the brunt of censorship. First tobacco. Then alcohol. Then "indecent" in programming after Nickelodeon. Then children's advertising and obesity. What's in store for 2007? Perhaps controls on MySpace, Facebook and anywhere else kids share thoughts. The new caveat? Sellers be scared. Be very scared.
4. **VIRTUAL WORLDS AND VIRTUAL LAWS**
In 2006, we saw the Matrix morph from motion picture to reality. Second Life. Avatars. Virtual Laguna Beach. And guess what? There's more to come. We've even seen the first lawsuit filed over a botched sale of virtual real estate. As consumers continue their flight from reality, friction will rise over virtual rights. Virtual lawyers are only a breath or two away, provided, of course, all those virtual dollars can be converted into real cash.
5. **PRIVACY ON A PEDESTAL**
Nothing spurs congressional activity like right-to-privacy issues. Legislators and regulators can't stop enacting restrictive rules that make it more difficult to target consumers. Perhaps House Energy and Commerce Chairman Joe Barton, soon to be part of the congressional minority, put the congressional vendetta best when he said, "It is time to put privacy of the people ahead of the needs of business." Really? So how far will Congress go in 2007? Very far.
6. **HISPANIC ADVERTISING COMES OF AGE**
While regulators weren't paying attention, Hispanic advertising became a multibillion-dollar industry. But in 2006, the FTC began wondering just what all those Hispanic marketers were saying. So the FTC formed a task force to take a hard look at advertising and marketing practices in the Hispanic community. 2007 will be the year the Feds will take aim and bring down those taking advantage of a heretofore unregulated market. *¿Usted habla español?*
7. **EVER-DWINDLING AGENCY COMPENSATION**
In 2007, agreements between advertisers and advertising agencies will continue their seemingly never-ending journey into an abyss of confusion. Pressures from CMOs bent on proving ROI will only add to the turmoil. No end to the insanity is in sight in 2007. Advertisers will remain entranced with the power of knowing what makes an agency profitable, cost consultants will continue to knock down agency compensation and agencies will prolong their mourning over the death of the big (profitable) idea.
8. **TAKE TWO BUT DON'T CALL ME IN THE MORNING**
The heat on prescription-drug advertising will continue to rise. Expect serious moves to prohibit or restrict advertising for the first year following approval to market a drug. And if the First Amendment gets in the way, you'll see the FDA forcing companies to voluntarily agree to a one-year blackout in exchange for approval, something few companies will be able to resist. Also look for attacks on sponsorship deals at sports venues where TV coverage hits children and family viewing.
9. **PRELUDE TO BEIJING**
Next year marks the Pan American Games, this installment taking place in Rio de Janeiro, Brazil. This is a prelude to Beijing because the Pan American Games might become all about ambush marketing. Will the organizers in Brazil use the aggressive policing the Italians showed at the Turin games? Brazil will be in the cross hairs of sponsors who demand protection from renegade competitors. So Rio's games are a precursor to the Beijing Olympics, where ambushers may find unprecedented gold.
10. **WHERE THE FIRST AMENDMENT DOESN'T REIGN**
In 2007, watch for countries other than the United States to enact outright bans on advertising for controversial products. Throughout Europe, there are moves to ban children's advertising. South Africa is considering a ban on all ads for alcoholic beverages. Prescription-drug advertising is under attack in South America. Unlike the United States, the rest of the world doesn't really have the luxury of a robust First Amendment. Outright bans are entirely legal.