

Ad issues to watch for in '06

By Douglas J. Wood

Doug Wood is chairman of the advertising and marketing law group at Reed Smith, New York. He is general counsel to the Advertising Research Foundation and the Association of National Advertisers.

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PRODUCT PLACEMENT

Consumer Watch has asked the FTC and FCC to mandate that consumers are alerted to product placement on TV. Such a requirement would likely kill the practice. The FTC rejected the petition—a victory for advertisers. But the FCC has yet to respond, and Commissioner Jonathan S. Adelstein recently said undisclosed product placement could be payola and illegal, particularly in shows that look like news.

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WORD OF MOUTH

Word-of-mouth is the tactic du jour. But a number of regulators, including the much-feared New York Attorney General Elliot Spitzer, have cried foul unless the marketer tells the consumer that they're being paid by an advertiser to say nice things about a product. Consumer Watch, characterizing WOM as inherently deceptive and stealth marketing at its worst, has petitioned the FTC to adopt new regulations. Our guess: It will!

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SAG/AFTRA NEGOTIATIONS

Collective bargaining agreements with the Screen Actors Guild and American Federation of Television and Radio Artists expire in October, and negotiations on new contracts should begin in spring. The elephant in the room: Advertisers' growing use of media (cellphones, Internet) not covered by union pacts. The unions want additional payments—but have to be careful not to drive advertisers away from union talent.

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WITHER SELF REGULATION?

Self-regulation in the ad industry, spearheaded by the National Advertising Review Council is regarded by the FTC as a poster child of effective self-regulation, with better than 95% compliance on rulings. But some tough rulings by one of its operating units, CARU, have upset advertisers who feel more consultation was needed. This debate will heat up and test the balance between self-regulation and advertiser support.

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DTC AD REGULATION

Spending on prescription drug ads has skyrocketed. The messages can improve lives, even save them. But some feel the increased cost for drugs and pressure on doctors to over-prescribe warrant a ban. Pharma responded in '05 with much needed ad self-regulation. The pressure from consumer groups for stronger measures, however, will not abate. Regulation on when and where the ads can appear could come in '06.

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COMPARE AND ... GET SUED

A Gillette razor ad suggesting its four blades are better than Schick's was taken off air by a Connecticut judge who felt its comparative claims went too far. Such outcomes are common in comparative advertising and have been considered one of the risks of taking direct shots at rivals. But this time, Gillette found itself, within days of the ruling, the recipient of class actions for deceptive advertising and shareholder value dilution in at least six states. Marketers should take note because class actions cut deep.

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PAYMENT AND PROCUREMENT

Pressure continues to increase on agencies to prove the value of the billions spent annually on advertising. Many measurement efforts will mature in '06, including the Apollo program, a joint effort of Nielsen and Arbitron, supported by P&G. As these proposals become focused, procurement departments at leading advertisers will increase their influence on advertising agency compensation, thus fueling the already heated debate on what an agency should earn. All of this will reach a head in '06.

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FLATTENED AD WORLD

Tom Friedman taught us in '05 that the world was flat and competition global. Even medical and legal services are being outsourced to India and China. But that can't happen with advertising, right? Wrong. In 2000, SAG's strike drove advertisers to explore off-shore production of TV commercials. Over the past five years, off-shore production has increased. Watch closely in '06 for hints of the continued de-evolution of U.S. domination of production and media buying as global offerings are sold into the U.S.

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ALCOHOL ADVERTISING

The successful regulation of tobacco ads has spilled over into alcohol advertising as legislators and attorneys take aim. Industry self-regulation has not stemmed pressure to restrict ads for spirits, beer and wine. The FTC and FCC have full plates, so booze ads are unlikely to make the hot topic list, and alcohol marketers can toast the New Year with confidence. But the tale of Big Tobacco has not been lost on the liquor leaders who will certainly keep pursuing self-regulation and messages of moderation.

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MOBILE MARKETING

In '05, cellphones became major markets for ring tone purveyors and music promoters. Streaming video is experiencing exponential growth on tiny screens. To support all this companies are looking to advertisers, through product placement or actual commercial messages. Consumers are crying foul, because all of this time on the phones costs money. But the reality is that regulators lack the capacity to keep up with the technology. So look for a replay of the Internet issues. Lots of debate, little regulation.

MAKING NAMES

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NAMELAB.

San Francisco, CA
415 517-0803 www.namelab.com inquiry@namelab.com

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VOD

The '06 mantra of consumers will be "I want it all and I want it now" as broadcasters move increasingly to VOD. And the networks would like to include the commercials. Why not? It's more exposure for the advertisers, right? Hold on. What about residuals for actors appearing in the spots? What about music licenses for soundtracks that have expired? And what about the continued availability of products offered by advertisers or, worse, seasonal deals and discounts offered in the commercials? These questions will need to be answered in '06.