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## Native Advertising: A Guide for Businesses

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Marketers and publishers are using innovative methods to create, format, and deliver digital advertising. One form is “native advertising,” content that bears a similarity to the news, feature articles, product reviews, entertainment, and other material that surrounds it online. But as native advertising evolves, are consumers able to differentiate advertising from other content?

Marketers and publishers are using innovative methods to create, format, and deliver digital advertising. One form is “native advertising,” content that bears a similarity to the news, feature articles, product reviews, entertainment, and other material that surrounds it online. But as native advertising evolves, are consumers able to differentiate advertising from other content?

The Federal Trade Commission Act prohibits deceptive or unfair practices. It’s the FTC’s job to ensure that long-standing consumer protection principles apply in the digital marketplace, including to native advertising. The FTC has issued an [Enforcement Policy Statement on Deceptively Formatted Advertisements](#) that explains how the agency applies established truth-in-advertising standards in this context. This Guide for Businesses supplements the [Enforcement Policy Statement](#) by offering informal guidance from FTC staff to help companies apply the [Policy Statement](#) in day-to-day contexts in digital media.

The first part of this Guide summarizes the consumer protection principles that serve as the foundation for the [Enforcement Policy Statement](#). The second part includes examples to explain how effective disclosure can help prevent deception. The third part features staff guidance on how to make clear and conspicuous disclosures within the format of native advertising. Of course, this Guide can’t cover every issue associated with native advertising. Nor does it provide a safe harbor from potential liability under Section 5 of the FTC Act. These examples are only general guidance for advertisers.

### I. ESTABLISHED PRINCIPLES THAT SUPPORT THE FTC’S APPROACH TO NATIVE

## ADVERTISING

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Under the FTC Act, an act or practice is deceptive if there is a material misrepresentation or omission of information that is likely to mislead the consumer acting reasonably in the circumstances. A misrepresentation is material if it is likely to affect consumers' choices or conduct regarding an advertised product or the advertising for the product.

In evaluating whether an ad is deceptive, the FTC considers the net impression the ad conveys to consumers. Because ads can communicate information through a variety of means – text, images, sounds, etc. – the FTC will look to the overall context of the interaction, not just to elements of the ad in isolation. Put another way, both what the ad says and the format it uses to convey that information will be relevant. Any clarifying information necessary to prevent deception must be disclosed clearly and prominently to overcome any misleading impression.

A basic truth-in-advertising principle is that it's deceptive to mislead consumers about the commercial nature of content. Advertisements or promotional messages are deceptive if they convey to consumers expressly or by implication that they're independent, impartial, or from a source other than the sponsoring advertiser – in other words, that they're something other than ads. Why would it be material to consumers to know the source of the information? Because knowing that something is an ad likely will affect whether consumers choose to interact with it and the weight or credibility consumers give the information it conveys.

Over the years, the FTC has brought many cases challenging the format of ads as deceptive. For example, the Commission has taken action against ads that deceptively mimicked the format of news programming or otherwise misrepresented their source. Other cases focused on misleading “door openers” – promotions with a format that deceived consumers about the nature of the transaction – for example, telemarketers who misleadingly suggested they were calling on behalf of a consumer's credit card company or bank. (The Commission has held that when the first contact between a seller and a buyer occurs through a deceptive practice, the law may be violated even if the consumer later finds out the truth.) Or, as the FTC Endorsement Guides establish, advertisers' use of third-party endorsements may be deceptive if there is an undisclosed material connection between the advertiser and the endorser – one that might materially affect the weight or credibility of the endorsement. The FTC considers misleadingly formatted ads to be deceptive regardless of whether the underlying product claims that are conveyed to consumers are truthful.

The particular forms native advertising takes in the digital marketplace may be new, but the FTC's Enforcement Policy Statement makes clear that the FTC applies the same truth-in-advertising principles it has used for decades to evaluate whether the format of an ad is deceptive. In the context of native advertising, if the source of the content is clear, consumers can make informed decisions about whether to interact with the ad and the weight to give the information conveyed in the ad. However, an ad is deceptive if it promotes the benefits and attributes of goods and services, but is not readily identifiable to consumers as an ad. Thus, as the Policy Statement explains, the FTC will find an ad's format deceptive if the ad materially misleads consumers about its commercial nature, including through an express or implied misrepresentation that it comes from a party other than the sponsoring advertiser.

What do businesses need to know to ensure that the format of native advertising is not deceptive? The Enforcement Policy Statement explains the law in detail, but it boils down to this:

1. From the FTC's perspective, the watchword is transparency. An advertisement or promotional message shouldn't suggest or imply to consumers that it's anything other than an ad.
2. Some native ads may be so clearly commercial in nature that they are unlikely to mislead consumers even without a specific disclosure. In other instances, a disclosure may be necessary to ensure that consumers understand that the content is advertising.
3. If a disclosure is necessary to prevent deception, the disclosure must be clear and prominent.

## II. EXAMPLES OF WHEN BUSINESSES SHOULD DISCLOSE THAT CONTENT IS NATIVE ADVERTISING

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In digital media, native ads often resemble the design, style, and functionality of the media in which they are disseminated. Ads may appear on a page next to non-advertising content. Examples include news or content aggregator sites, social media platforms, or messaging apps. (The Enforcement Policy Statement refers to a page like that as a “publisher site.”) In other instances, ads are embedded in entertainment programming, such as professionally produced and user-generated videos on social media. Still other

examples include native advertising in email, infographics, images, animations, and video games.

When a native ad appears on the main page of a publisher site or is republished in other media, it commonly consists of a headline, often combined with a thumbnail image and a short description, which, if clicked or tapped, leads to additional advertising content. Under FTC law, advertisers cannot use “deceptive door openers” to induce consumers to view advertising content. Thus, advertisers are responsible for ensuring that native ads are identifiable as advertising before consumers arrive at the main advertising page. In addition, no matter how consumers arrive at advertising content, it must not mislead them about its commercial nature.

In assessing whether a native ad presented on the main page of a publisher site is recognizable as advertising to consumers, advertisers should consider the ad as a whole, and not just focus on individual phrases, statements, or visual elements. Factors to weigh include an ad’s overall appearance; the similarity of its written, spoken, or visual style or subject matter to non-advertising content on the publisher site on which it appears; and the degree to which it is distinguishable from other content on the publisher site. The same assessment applies to any click- or tap-into page – the page on which the complete ad appears.

### **Example 1**

The Winged Mercury Company sells running shoes. An ad for the company’s flagship shoe appears on a financial news site. The ad contains an image of the shoe, the headline “Run Fast, Run Smart, Run Winged Mercury,” and a hyperlink to learn more about Winged Mercury shoes’ innovative shock absorption. The color scheme, font, and graphics of the ad look like the format of the financial news that appears on the site. However, the slogan “Run Fast, Run Smart, Run Winged Mercury” together with the message to learn more about Winged Mercury shoes’ shock absorption likely convey to consumers the commercial nature of the content. In addition, the subject matter of the ad differs substantially from the financial news on the site. Therefore, a specific disclosure that the content is an ad is probably not necessary, absent extrinsic evidence to the contrary.

### **Example 2**

Fitness Life, an online health and fitness magazine, features articles about exercise, training advice, and product reviews. An article on Fitness Life’s main page is titled “The 20 Most Beautiful Places to Vacation.” The article displays images in a scrolling carousel of beautiful spots for fitness enthusiasts to visit. The Winged Mercury Company paid Fitness Life to create this article and publish it on Fitness Life’s site. The article says it is “Presented By” Winged Mercury and includes an image of the company’s logo. Although Winged Mercury’s sponsorship of the article is a form of advertising, the article itself is not, as it does not promote any of Winged Mercury’s products. It only contains images of places where readers – including potential Winged Mercury customers – might like to visit. Thus, the article does not need to be identifiable as an ad before or after consumers click into it.

### **Example 3**

A kitchen cabinet company paid an online lifestyle magazine, Styling Home, to create and publish an article entitled, “10 Must-Haves for a Great Kitchen.” The article, which displays a series of images depicting well-designed kitchens, appears in the same layout as other articles on the Styling Home site. Most of the images in the article depict and promote the sponsoring advertiser’s products. Thus, the article is an advertisement. The ad’s format, however, is likely to mislead consumers to believe it is an ordinary Styling Home article and reflects the independent views of the Styling Home writer, and not those of the sponsoring advertiser. Therefore, a clear and prominent disclosure of the article’s commercial nature is necessary.

The more a native ad is similar in format and topic to content on the publisher’s site, the more likely that a disclosure will be necessary to prevent deception. Furthermore, because consumers can navigate to the advertising without first going to the publisher site, a disclosure just on the publisher’s site may not be sufficient. In that instance, disclosures are needed both on the publisher’s site and the click- or tap-into page on which the complete ad appears, unless the click-into page is obviously an ad.

### **Example 4**

The Winged Mercury Company disseminates an ad on Fitness Life, the online magazine described in Example 2. The ad is similar in format and content to regular articles on the site. The headline “Running Gear Up: Mistakes to Avoid” appears next to a photo of a runner. In addition to other training suggestions, the article recommends Winged Mercury shoes for injury prevention. Consumers can access the article either from the Fitness Life main page or directly without viewing that page. In this instance, consumers are likely to conclude that the article was written by a Fitness Life journalist and reflects the

journalist's independent views. To prevent consumer deception, a clear and prominent disclosure of the ad's commercial nature on the main page of the publisher's site is necessary. In addition, because consumers can access the article without clicking through from the Fitness Life main page, the ad on that click-into page also should be clearly and prominently identified as commercial.

### **Example 5**

Fitness Life publishes an article entitled "The 20 Most Beautiful Places to Vacation." No sponsoring advertiser paid Fitness Life to publish the article. However, a resort hotel pays Fitness Life to display a photo of its beach resort as the twenty-first image displayed in the article. The photo has the same look and feel as the images featured in the article. There is no need to disclose to consumers on the Fitness Life main page that the article is accompanied by advertising. However, because the photo appears to be part of the article rather than an advertisement, a clear and prominent disclosure of the photo's paid nature on the click-into page is likely necessary.

The digital marketplace offers alternative ways for advertisers to disseminate content to consumers, including things like news feeds and content recommendation widgets. The same principles of transparency and disclosure apply.

### **Example 6**

Newsby is an online magazine featuring stories about health, technology, science, and business. A headline published in Newsby's feed reads "Making Cleaning Fun: How Technology Has Changed Housekeeping" with the subheading, "Vacuum Cleaners are as popular today as when first introduced in the 1800s." The text and an accompanying image are formatted like those of the other articles in Newsby's feed and, if tapped, lead to an infographic with facts about vacuum cleaners, including a list of the "coolest innovations." One of the listed innovations is "Dirt Pulverizer" technology, which purportedly not only picks up dirt, but also cleans the air. Appliance company Machine-Clean Vacuums, which is the exclusive seller of "Dirt Pulverizer" vacuums, paid Newsby to create and publish the article on its site. When viewed in the feed of Newsby's site, consumers are likely to interpret the Machine-Clean Vacuums ad as an independent story impartially reporting on information relating to vacuum cleaners, and not an ad developed and published on behalf of a sponsoring advertiser. Thus, effective disclosures informing consumers of the ad's commercial nature – both in the site's feed and on the click-into infographic – are necessary to prevent deception.

### **Example 7**

A content recommendation widget included on different publisher sites displays links to external pages. One site on which these third-party links are placed is Newsby. On the Newsby site, these links are formatted to look like news headlines and are grouped together in a box with headings like "More Content for You," or "From Around the Web." One of the headlines appearing in the box is for the Winged Mercury ad described in Example 4, "Running Gear Up: Mistakes to Avoid." The similarity of the Winged Mercury ad's format to the type of headlines Newsby publishes on its site, combined with phrases like "More Content for You," or "From Around the Web," is likely to lead consumers to believe it is an independent news story, and not from the sponsoring advertiser. Thus, before consumers click to access the Winged Mercury content on the Fitness Life site, a clear and prominent disclosure is necessary to inform them of its commercial nature. As discussed in Example 4, the click-into page on the Fitness Life site also should disclose the commercial nature of the content.

### **Example 8**

An article published in Styling Home, the online lifestyle magazine referred to in Example 3, reviews family vehicles and ranks the NuvoTrek as the best hybrid. The car company that manufactures the NuvoTrek did not pay Styling Home to publish the original article, but wants to promote the article, given the favorable review of its car. The car company pays a content recommendation widget to integrate a link to the article into a popular car magazine's site. The article itself is not advertising. However, the car company's dissemination of the article through the content recommendation widget is a form of advertising, and thus the company has an obligation to ensure that any claims the article conveys about its car are truthful, not misleading, and substantiated. Also, to the extent that the article headline's presentation on the site misleads consumers to believe that a link to the content is included or featured based on the independent judgment of the car magazine's editors, and not based on payment by the sponsoring advertiser, a failure to effectively disclose its paid nature is likely deceptive.

Native ads also can be integrated into content, including entertainment programming and video games. In some instances, consumers are likely to understand that a sponsoring advertiser paid for the product integration. In other instances, a disclosure may be

necessary to avoid deceiving consumers.

### **Example 9**

A video game immerses a player in a virtual world. While exploring part of the virtual world, a player sees billboards advertising actual products. The marketers of the advertised products paid the game designers to include the ads in the game. That billboards are advertisements is apparent to consumers. To the extent that the billboards are for actual products, consumers are likely to attribute the ads to the sponsoring advertisers and no disclosure is necessary. However, the sponsoring advertisers would be liable for any deceptive product claims on the billboards.

### **Example 10**

The same virtual world game in Example 9 integrates branded products in other ways; for example, game characters wear a specific sunglass brand, drink a particular brand of beverage, and patronize a particular donut shop. The sponsoring advertisers paid the game developer to include their branded products in the game. However, the game conveys no objective claims about the various branded products. Even though consumers may not realize that the sponsored advertisers paid for their branded products to appear, disclosure of this paid product placement is not necessary to prevent consumer deception because whether the branded products appear in the game because of payment by the sponsoring advertiser or because of the video game developer's creative judgment is not likely to be material to consumers.

### **Example 11**

A game app tests players' skills to survive in the wilderness and offers a choice of supplies and equipment in each game phase. When players tap to make a choice, a box appears containing a selection of items – for example, a flashlight, a rope, and a hatchet. Each item is accompanied by a short message – for example, the phrase “Light your path” with the flashlight. Among the items players can select is a bar of soap identified by brand name with the text “Clean up.” If tapped, the soap icon takes the player out of the game and into the soap manufacturer's branded game app. Based on consumers' customary use of the game and the similarity of the soap to other items players can select in the game, consumers might not recognize the icon as an ad before tapping and leaving the game. Because the in-app ad's format misleads consumers in this respect, a clear and prominent disclosure informing them of the icon's commercial nature is necessary before consumers tap on it.

### **Example 12**

On its website, a home improvement TV show features “do it yourself” videos hosted by an expert builder who provides advice on home projects. A stain manufacturer, ZYX Paints, pays the show to produce and publish on the home improvement show's site a video on building a wood deck. In the video, the show's expert builder uses a ZYX Paints stain and recommends it to protect and maintain the deck. The ad's look and feel closely resembles other videos posted on the home improvement show's site, which customarily are unpaid. In this situation, consumers are likely to perceive the video as independent content reflecting the impartial opinion of the expert builder host or the show's writers, and would not likely attribute it to the sponsoring advertiser. An effective disclosure informing consumers of the video's commercial nature before they play it is necessary to prevent consumer deception.

### **Example 13**

Instead of the video described in Example 12, the home improvement show is paid by ZYX Paints to create and publish on the show's site a video that shows the expert builder host using ZYX Paint stain on the deck. However, rather than the expert builder expressly recommending the product to protect and maintain the deck, the camera zooms in on the product's label. Whether an effective disclosure informing consumers of the video's commercial nature would be necessary depends upon reasonable consumer expectations. In this particular situation, consumers would likely interpret the use of the branded stain product to be the expert recommendation and opinion of the expert builder host or the show's writers, rather than a paid inclusion. In that case, a clear and prominent disclosure of the video's commercial nature is necessary before consumers play it.

In digital media, consumers can encounter native ads in a wide variety of settings, including in social media and email. In some cases, advertisers also facilitate the republication or “sharing” of native ads by others, for example, by including social media plugins. In evaluating whether consumers are likely to understand a native ad is advertising, it is important that advertisers consider the particular circumstances in which native ads are presented to consumers. These circumstances include consumers' ordinary

expectations based on their prior experience with the media in which the ads appear, as well as how they consume content in that media.

#### **Example 14**

The same ZYX Paints video described in Example 12 is inserted into users' content streams on a social media site. The video appears in the same format as the regular content in the streams, which consist of posts by individuals and entities with whom users have chosen to interact or follow. Each post, including any ads, are clearly attributable to a source by name, *e.g.*, "ZYX Paints" or "Laura N. Michaels." Based on their customary use of the social media site, consumers ordinarily would be aware that they did not subscribe to a post by ZYX Paints, and thus would be unlikely to perceive the ad as a regular post appearing in their content stream. Instead, they would attribute it to the sponsoring advertiser. Thus, in this situation, a disclosure informing consumers of the video's commercial nature before they view it is not necessary. However, given the video's format described in Example 12, consumers who view the video would reasonably believe an independent home improvement show produced the video and that it reflects the impartial views of the show's host or writers, and not those of a sponsoring advertiser. To avoid deception, a clear and prominent disclosure informing consumers of the video's commercial nature is necessary in the video itself.

#### **Example 15**

The Winged Mercury article published in Fitness Life, "Running Gear Up: Mistakes to Avoid," described in Example 5 includes buttons so that readers can post a link to the article from their personal social media streams. When posted, the link appears in a format that closely resembles the format of links for regular Fitness Life articles posted to social media. In this situation, the ad's format would likely mislead consumers to believe the ad is a regular article published in Fitness Life. Advertisers should ensure that the format of any link for posting in social media does not mislead consumers about its commercial nature.

#### **Example 16**

Gormella uploads humorous videos to her dedicated channel on a popular video-sharing platform and has cultivated a significant social media following. Among her videos is one she created for a snack food company to promote its new cracker, Salt-Zs. The video, "Crackering Up in My Local Supermarket," includes a thumbnail image of Gormella laughing in a grocery store aisle. In the video, Gormella starts out in the supermarket aisle and is magically transported to various locales where she talks to people about Salt-Zs. Once consumers view the video, they are likely to identify it as an advertisement and understand that the sponsoring advertiser paid Gormella to promote and endorse its branded product. Nevertheless, before watching the video, consumers likely would not expect it to be advertising, given their experience with other videos she had posted. Thus, the video's commercial nature should be clearly and prominently disclosed before consumers view it.

Yet another setting in which consumers may come upon native ads is in non-paid search engine results. Advertisers should take steps to ensure that any non-paid search listings for a native ad do not suggest or imply to consumers that it is something other than an ad.

#### **Example 17**

A text link and thumbnail image for the same ZYX Paints video described in Example 12 appears in the non-paid search results returned in response to consumers' queries using a search engine. The textual link to the video reads "Building a Deck: 5 Steps for Success" and includes the name of the home improvement show, but does not mention ZYX Paints. In this example, based on consumers' customary experience using search engines, they ordinarily would associate a video presented in this manner to the home improvement program and not to a sponsoring advertiser. The advertiser should ensure that any link or other visual elements, for example, webpage snippets, images, or graphics, intended to appear in non-paid search results effectively disclose its commercial nature.

### **III. HOW TO MAKE CLEAR AND PROMINENT DISCLOSURES IN NATIVE ADVERTISING**

Disclosures that are necessary to avoid misleading consumers must be presented clearly and prominently. Whether a disclosure of a native ad's commercial nature meets this standard will be measured by its performance – that is, do consumers recognize the native ad as an ad? Only disclosures that consumers notice, process, and understand can be effective. Inadequate disclosures can't change the net impression created and won't stop consumers from being deceived that advertising or promotional messages are something other than ads.

The FTC staff business guidance document [.com Disclosures: How to Make Effective Disclosures in Digital Advertising](#) explains what advertisers should do to ensure disclosures in digital advertising are clear and prominent. In general, disclosures should be:

- in clear and unambiguous language;
- as close as possible to the native ads to which they relate;
- in a font and color that's easy to read;
- in a shade that stands out against the background;
- for video ads, on the screen long enough to be noticed, read, and understood; and
- for audio disclosures, read at a cadence that's easy for consumers to follow and in words consumers will understand

Disclosures must be clear and prominent on all devices and platforms that consumers may use to view native ads. In assessing effectiveness, disclosures should be considered from the perspective of a reasonable consumer. When ads are targeted to a specific audience, the relevant perspective is that of a reasonable or ordinary member of the targeted group. Advertisers should improve their disclosures if there are indications that a significant minority of reasonable consumers do not notice, process, or comprehend them.

Advertisers have flexibility as to how to identify native ads as ads, so long as consumers notice and process the disclosures and comprehend what they mean. Some native ads use text labels or company logos combined with other visual cues, such as background shading, outlines, or borders. Multimedia ads, such as online videos, may use graphics, video or audio disclosures, or some combination thereof. The following discussion describes additional information that advertisers should consider to make clear and prominent disclosures in native advertising on the main page of a publisher site and on the click- or tap-into page on which a complete ad appears.

## **A. Proximity and placement**

### **Place disclosures on the main page of a publisher site where consumers will notice them and easily identify the content to which the disclosure applies.**

Advertisers should assume that consumers don't look at everything on a publisher site. In deciding which content items to read or watch, consumers' attention is likely to be drawn to certain focal points on a screen. The disclosure that an ad is commercial content should appear near the ad's focal point. When browsing the main page of news or content aggregator sites, consumers typically look at story headlines on the site. Placing disclosures near a native ad's headline increases the likelihood consumers will see them.

### **Place disclosures in front of or above the headline of the native ad.**

The location and spacing of a disclosure in relation to the native ad it clarifies also matters. If a publisher site is read left to right, consumers are less likely to notice disclosures positioned to the right of the native ads to which they relate. In addition, if native ads are inserted into a vertical stream of content items, placing a disclosure below a native ad increases the risk that consumers will click on the ad without seeing the disclosure. Consumers are most likely to notice and understand disclosures that are placed immediately in front of or above a native ad's headline.

### **If a native ad's focal point is an image or graphic, a disclosure might need to appear directly on the focal point itself.**

Sometimes a focal point on a publisher site is something other than a headline or other written text – for example, images or graphics. Disclosures placed near focal points that are images, graphics, or other visually strong elements might not be sufficiently noticeable to consumers and disclosures might need to be placed on the focal points themselves. For example, in deciding which videos to watch on a video-sharing channel, consumers might pay little attention to written descriptions and instead look at thumbnail images of the videos. Under those circumstances, a disclosure placed directly on the thumbnail image itself is most likely to be effective.

### **A single disclosure that relates to more than one native ad should be accompanied by visual cues that make it clear the disclosure applies to each ad in the grouping.**

Some disclosures may relate to more than one content item, such as with content recommendation widgets included on a publisher

site. If a grouping of content items contains a mix of advertising and non-advertising content, a single disclosure should not be used because consumers are not likely to know to which content items the disclosure relates. In those circumstances, native ads should be individually labeled to make clear which content items are ads. In addition, if a single disclosure is used to differentiate more than one native ad as advertising, other visual cues are necessary to make it obvious to consumers that the disclosure relates to each of the native ads in the grouping, such as through background shading that has a clear outline or a distinct border that sets off the native ads from other content items on a site.

### **Disclosures should remain when native ads are republished by others.**

Advertisers should maintain disclosures when native ads are republished by others in non-paid search results, social media, email, or other media. In non-paid search results, consumers are more likely to notice a disclosure if it's placed at the beginning of the title tag for a native ad's search listing. Similarly, URL links for posting or sharing in social media or email should include a disclosure at the beginning of the native ad's URL. In some circumstances, native ads for republishing in other media may include other distracting elements such as webpage snippets, images, or graphics. In placing disclosures, advertisers also should consider how these additional visual elements might influence where consumers look before they click on native ads.

### **Once consumers arrive on the click- or tap-into page where the complete native ad appears, disclosures should be placed as close as possible to where they will look first.**

Because consumers can navigate to native ads in different ways, a clear and prominent disclosure also should be presented on the click- or tap-into page on which a complete native ad appears. A disclosure is more likely to be seen if it's placed where consumers ordinarily start looking on a page. For articles, consumers typically look first at the headline and then browse the content. Disclosures therefore should be placed as close as possible to the headline. In placing disclosures, advertisers also should avoid putting them far above or to the right of the headline, where consumers are unlikely to notice them.

### **In multimedia ads, a disclosure should be delivered to consumers before they receive the advertising message to which it relates.**

With multimedia ads, disclosures generally should be made in the ad itself and shortly before consumers receive an advertising message. Delivering disclosures during or after an advertising message increases the risk consumers will miss the necessary disclosure. But making disclosures too early can be problematic, too. Some native ads may be only a small part of larger programming – for example, a video vignette or video game. In that case, a disclosure at the beginning of programming may not effectively communicate to consumers that the later content is an advertising message. In those circumstances, disclosures should be delivered as close as possible to the advertising messages they cover.

## **B. Prominence**

### **Advertising disclosures should stand out so consumers can easily read or hear them.**

Advertising disclosures should stand out. Disclosures should be large and visible enough for consumers to readily notice them. Therefore, advertisers should take into account the size and configuration of the device screens consumers will typically use to view their content. Text labels should be in a font size and color that consumers can easily read on the screen. To be readable, text color should contrast strongly with the background. Using lighter font colors with a dark background makes it less likely consumers will read the text of a disclosure.

Any background shading used to differentiate native ads from non-advertising content should be sufficiently saturated for consumers to notice it. Advertisers also should consider using visual cues in addition to background shading, such as a prominent border that sets off native ads from surrounding content, in case consumers cannot see color differences.

Multimedia ads that deliver an audio message may require an audio disclosure. Audio disclosures should be in a sufficient volume and cadence for ordinary consumers to hear and comprehend them. In addition, visual disclosures in multimedia ads should be displayed on the screen long enough for ordinary consumers to notice, read, and comprehend them.

## **C. Clarity of meaning**

### **Disclosures must be understandable.**

Disclosures are not effective unless consumers understand them to mean that native ads are commercial advertising. Disclosures should be in plain language that is as straightforward as possible. An advertiser also should make disclosures in the same language

as the predominant language in which the ad is presented. Advertisers should avoid using:

- Technical or industry jargon;
- Different terminology to mean the same thing in different places on a publisher site;
- The same terminology to mean different things on a publisher site;
- Terms that customarily have different meanings to consumers in other situations;
- Unfamiliar icons or abbreviations; or
- Company logos or brand names unaccompanied by a clear text disclosure.

Terms likely to be understood include “Ad,” “Advertisement,” “Paid Advertisement,” “Sponsored Advertising Content,” or some variation thereof. Advertisers should not use terms such as “Promoted” or “Promoted Stories,” which in this context are at best ambiguous and potentially could mislead consumers that advertising content is endorsed by a publisher site. Furthermore, depending on the context, consumers reasonably may interpret other terms, such as “Presented by [X],” “Brought to You by [X],” “Promoted by [X],” or “Sponsored by [X]” to mean that a sponsoring advertiser funded or “underwrote” but did not create or influence the content.

In addition, terms might not be sufficiently clear to consumers if used on a publisher site that also uses different terms to label ads. Using consistent terminology to identify ads on the same publisher site decreases the likelihood that consumers will misunderstand a native ad’s disclosure. Moreover, company logos and names on their own are not likely adequate to signal that content is commercial advertising.

**A final note:** The FTC’s [Enforcement Policy Statement on Deceptively Formatted Advertisements](#) doesn’t apply just to advertisers. In appropriate circumstances, the FTC has taken action against other parties who helped create deceptive advertising content – for example, ad agencies and operators of affiliate advertising networks. Everyone who participates directly or indirectly in creating or presenting native ads should make sure that ads don’t mislead consumers about their commercial nature. Marketers who use native advertising have a particular interest in ensuring that anyone participating in the promotion of their products is familiar with the basic-truth-in-advertising principle that an ad should be identifiable as an ad to consumers.

## YOUR OPPORTUNITY TO COMMENT

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The National Small Business Ombudsman and 10 Regional Fairness Boards collect comments from small businesses about federal compliance and enforcement activities. Each year, the Ombudsman evaluates the conduct of these activities and rates each agency’s responsiveness to small businesses. Small businesses can comment to the Ombudsman without fear of reprisal. To comment, call toll-free 1-888-REGFAIR (1-888-734-3247) or go to [www.sba.gov/ombudsman](http://www.sba.gov/ombudsman).

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