

Digital Content Next

Legal and Legislative Committee
March 13, 2018

Agenda

- Special Guest: Laura Sullivan, Senior Attorney, Division of Advertising Practices, FTC, will discuss the FTC's recently released guidance regarding native advertising disclosures
- Discussion re Legislation to Create Anti Trust Safe Harbor for News Organizations
- Upcoming Events for DCN Legal and Legislative Committee

**BLURRED LINES: EXPLORING
CONSUMERS' ADVERTISING
RECOGNITION
*SEARCH ENGINES AND NATIVE ADS***

**Laura M. Sullivan
Division of Advertising Practices
Federal Trade Commission**



**The opinions
expressed are
my own. I
don't speak
for the FTC.**

FEDERAL TRADE COMMISSION

**Enforcement Policy Statement on
Deceptively Formatted Advertisements**

AGENCY: Federal Trade Commission.

ACTION: Commission policy statement.

SUMMARY: The Federal Trade Commission has issued an Enforcement Policy Statement on Deceptively Formatted Advertisements. The Statement describes the underlying consumer protection principles that guide the Commission's enforcement actions, advisory opinions, and other guidance addressing various forms of deceptively formatted advertising, including advertising and promotional messages integrated into and presented as non-commercial content.

misleads consumers, the Commission considers the overall "net impression" it conveys.³ Any qualifying information necessary to prevent deception must be disclosed prominently and unambiguously to overcome any misleading impression created.

The Commission has long held the view that advertising and promotional messages that are not identifiable as advertising to consumers are deceptive if they mislead consumers into believing they are independent, impartial, or from the sponsoring advertiser. Knowing the source of an advertisement or promotional message typically affects the weight or credibility consumers place on it. Such knowledge also may influence whether and to what extent consumers choose to interact with content containing a promotional message.

An advertisement is deceptive under Section 5 of the FTC Act if it “misleads consumers as to its nature or source, including that a party other than the sponsoring advertiser is its source.”

**Are consumers recognizing search
ads and native ads as
advertisements?**







file:///trade.ftc.gov/workprod/BCP/1145DAP/Cases/Google Inc (2)_142-3139/Ad Treatments 10/1_5-GDO Tablet ORIG/1_Google SERP/index_jansen_v02.html

Google

Web Shopping News Images Videos More Search tools

About 286,000,000 results (0.31 seconds)

Shop for tablet on Google

Sponsored

Nexus 7 from \$229
www.google.com/nexus
The 7" tablet from Google. Free shipping for limited time. Buy now

High Quality Dell Tablets
www.dell.com/Tablets
4.0 ★★★★★ rating for dell.com
Perfect for Work, Perfect for Play. With Intel Inside®. Buy One Today!

iPad mini
Ad www.apple.com/
with Retina display. Small wonder. L...
Back to School - iPad Air - iPad mi...
7101 Democracy Blvd, Bethesda

Powerful Tablets - Intel.co
Ad www.intel.com/Tablets
Look for Intel Inside® - Tablets with...
Android or Windows ... Powerful Vi...
Intel has 616,715 followers on Google+
Tablets with Windows 8 - Tablets for...

Tablets - Best Buy
www.bestbuy.com › ... › iPad, Tablet
Get your tablet computer from Best...
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Tablet Reviews | Tablets
www.pcmag.com › Reviews › PC T...

10 BEST BIKE LOCKS
Protected against bike theft.

10 MODERN COMMUTER BAGS
Stylish, durable and across a range of prices.

TOP 10 COFFEE GRINDERS
Grind beans.

100 ESSENTIAL BOOKS FOR MEN
A compilation of enjoyable reads.

THURSDAY, AUG 28, 2014

GEAR PATROL

GP100 FEATURES BUYING GUIDES KITS FILMS OPINION SERIES SEARCH SUBSCRIBE ABOUT

Monday, July 7th

THREE NEW-WAVE HYBRIDS THAT EMPHASIZE DESIGN (AND EFFICIENCY)

NO COMPROMISE, PLENTY OF STYLE

If you think the only thing about hybrids that's advanced in the past decade or so is technology, think again. No longer the ugly stepchild of the automotive world, many hybrids have also arrived in the department of style and even take the kind of risks manufacturers wouldn't dare impute to their gas-powered children. We've helmed three stylish hybrids that run the range of prices and designs. They're all pleasing to the eye as well as to the environment and give us hope for the future: one without hybrids that look like lozenges on wheels.

f Like 53 f Like 19

GP Short

READ MORE

HOW DO YOU WANT your burger? SLAWED.

Miracle Whip AND PROUD OF IT GET RECIPES >

PHOTO ESSAYS

Search engine web pages and media sites containing native ads



10 BEST BIKE LOCKS
Protected against theft.



10 MODERN COMMUTER BAGS
Stylish, durable and across a range of prices.



TOP 10 COFFEE GRINDERS
Grind beans.



100 ESSENTIAL BOOKS FOR MEN
A compilation of enjoyable reads.

THURSDAY, AUG 28, 2014

GEAR PATROL



RISE OF THE MACHINES

POSITIVELY CHARGED: 7 BEST ELECTRIC MOTORCYCLES OF 2014

While electric cars have stumbled in the recent past, motorcycles have readily embraced digital propulsion — even Harley-Davidson has one in the works. With less mass to motivate, shorter runtime requirements and a complete lack of power-robbing creature features, motorcycles are a natural fit for battery-operated powerplants. Here are the seven best electric motorcycles of 2014.

Tweet 7

Tweet 23

READ MORE



A WORLD RALLY BLUR

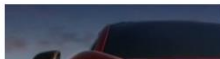
WITH THE 2015 SUBARU WRX, A RALLY CAR MATURES

Since it arrived onto North American shores in 2002 the Subaru WRX has been making the case for unadulterated fun, one four-wheel drift at a time. Vehicles and our expectations of them, however, have changed a lot since then. No longer content to merely just demand our cars have style, we now want them to touch everything. To keep up with the times, Subaru sent the WRX to us, it graduated — with honor.

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Like 58

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CAPTAIN PLANET APPROVES
THE SUPERCAR

Click-into page



Initial page and click-into page

Modified Ad Disclosure




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Tweet 7 Tweet 23

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Like 92 Like 58

READ MORE

➡ **Language**

➡ **Placement**

➡ **Text Size and Color**

➡ **Other Visual Cues**

- **48 participants**
- **During a lab session, participants viewed 8 different sets of web pages**
 - **Half search/half native**
 - **Half desktop/half smartphone**
 - **Half original version/half modified**
- **In different order for each participant**

Measures

- **Participants “thought aloud” while interacting with web pages**
- **Responded to open-ended questions**
- **Tracked participants’ eye movements and fixations on screen**
- **Post-study questions**

The image features two overlapping speech bubbles. The left bubble is a dark teal color and contains the text 'Do you see any ads?'. The right bubble is a light blue color and contains the text 'Who is the source of the message?'. Both bubbles are crossed out with a single red diagonal line that runs from the top-left to the bottom-right.

**Do you see
any ads?**

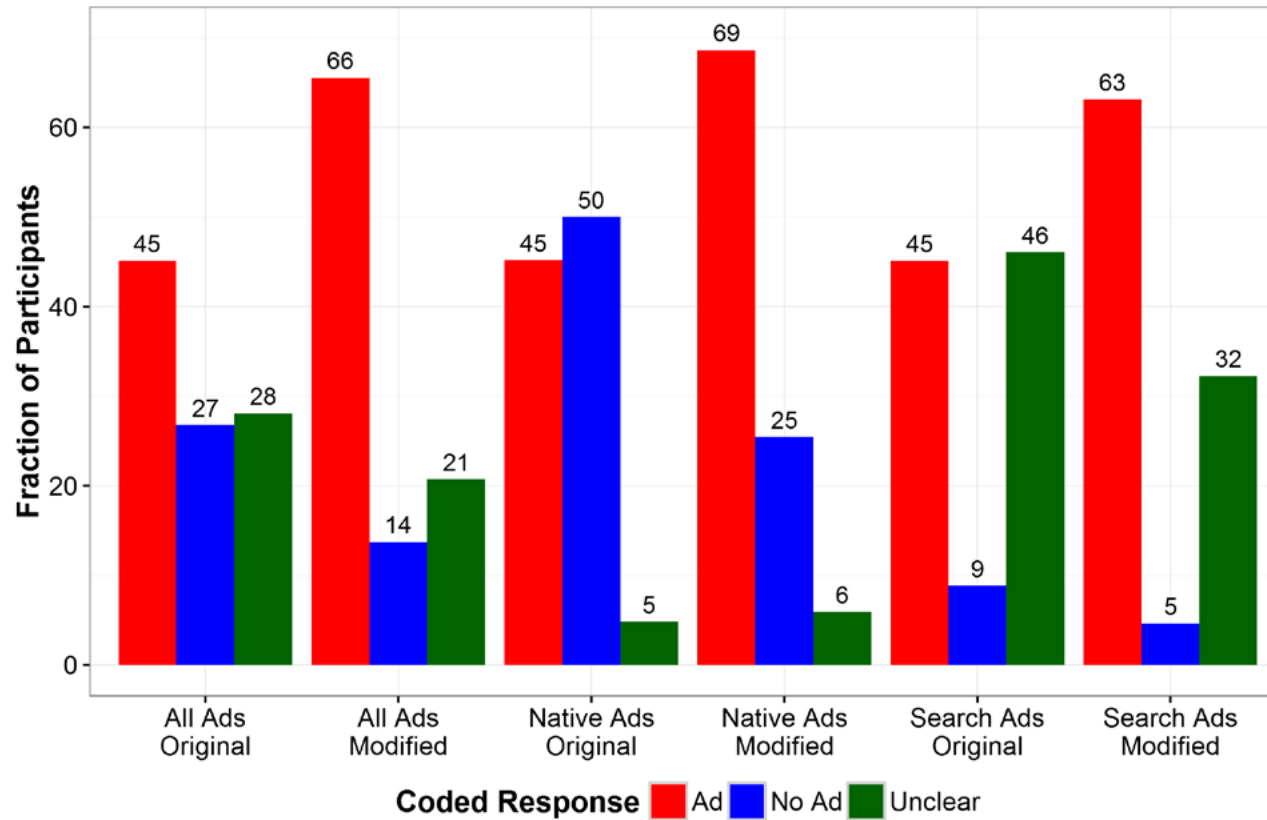
**Who is the
source of
the
message?**

Across all the different ads tested . . .



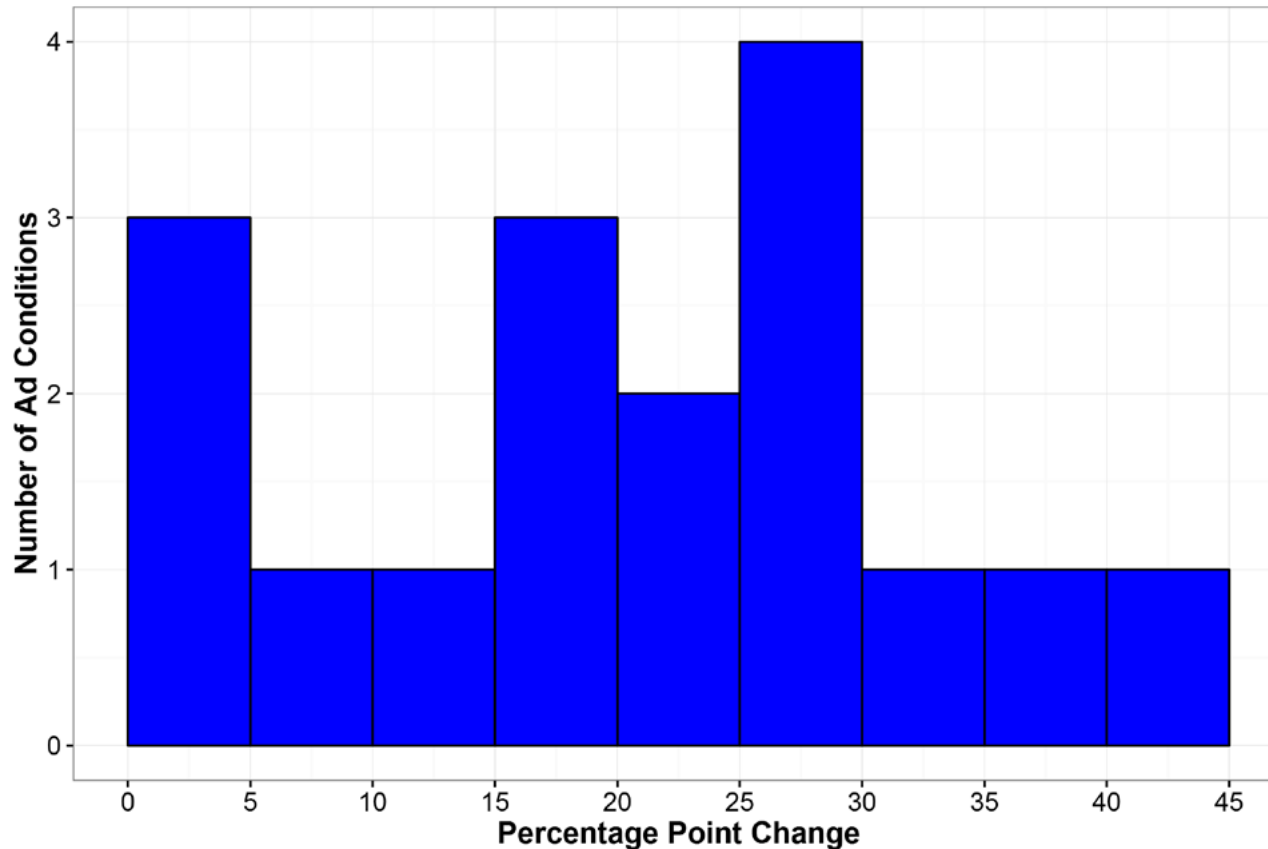
Ad recognition among participants improved with the modified disclosures

Percentage of Ads That Participants Recognized as an Ad, Did Not Recognize as an Ad, or Where It Was Unclear to Coder



Ad recognition improvement similar for both search ads and native ads

Distribution of Observed Increases in Ad Recognition Across Different Ads Tested



Observed effects of modified disclosures were all in the positive direction but varied among different ads tested (*note: without testing for statistical significance or controlling for confounding factors*)

Qualitative Observations

Distinctive background shading and sufficiently noticeable ad labels

bing

air purifier

Also try: Air Purifiers Walmart · Air Purifier Reviews · Air Purifiers for Allergies

8,680,000 RESULTS Any time

Ads related to air purifier

Top 10 Air Purifiers - See Which Made the Top 10 List.
Air-Purifiers-America.com
Expert Reviews. Free Shipping!
air-purifiers-america.com is rated ★★★★★ on Bing (88 reviews)









Air Purifiers at Lowe's®
www.Lowe's.com
Keep Your Air Allergen & Dust Free With Air Purifiers at Lowe's®.
Brands: Germ Guardian, BlueAir, Allen, Fellowes, Fitrate and more
8755 Branch Avenue, Clinton · Directions · (301) 877-7790
lowes.com is rated ★★★★★ on Bing (7739 reviews)
Free Shipping \$49+ **Lowe's Credit Services**
Store Locator **Weekly Ads**

High Quality Air Purifier - Ultra Quiet BioGS Air Purifier.
www.RabbitAir.com
Free shipping and 90 days return.

THE Best Air Purifiers - Free Shipping & Five Year Warranty.
www.RockyMountainAirPurifiers.com
Discover Pure Rocky Mountain Air®

Air Purifiers - Walmart.com
www.walmart.com · All Departments
Air purifiers. Get a new air purifier or HEPA air filter at a great low price. Save money. Live better. Walmart.com.

Ads related to air purifier

 Airfree® P2000 Air Purifier \$269.00 H2o Labs	 Oranair Erik M17 Air Purifier \$1245.00 Sylvane	 LightAir IonFlow Air Purifier - S... \$299.00 Compact Appli... Walmart.com	 Whirlpool Whispure Tru... \$299.99 Walmart.com
 Whirlpool Whispure S10... \$299.00 AllergyBuyers...	 General Air MicrobeSwall... \$89.99 FitlersFast.com	 Whole House Air Purifier \$920.00 Global Industrial	 Holmes Hepa-Type Air Purifi... \$49.99 Drugstore.com

Allen A375 Air Purifier
www.AllenCorp.com/AllenA375
Ships Free within 24 Hours 60 Day Guarantee +Lifetime Warranty

Austin Air Purifier Sale
www.BetterHealthInnovations.com

Modified Ad Disclosures

bing

air purifier

Also try: Air Purifiers Walmart · Air Purifier Reviews · Air Purifiers for Allergies

8,680,000 RESULTS Any time

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Top 10 Air Purifiers - See Which Made the Top 10 List.
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Expert Reviews. Free Shipping!
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Air Purifiers at Lowe's®
www.Lowe's.com
Keep Your Air Allergen & Dust Free With Air Purifiers at Lowe's®.
Brands: Germ Guardian, BlueAir, Allen, Fellowes, Fitrate and more
8755 Branch Avenue, Clinton · Directions · (301) 877-7790
lowes.com is rated ★★★★★ on Bing (7739 reviews)
Free Shipping \$49+ **Lowe's Credit Services**
Store Locator **Weekly Ads**

High Quality Air Purifier - Ultra Quiet BioGS Air Purifier.
www.RabbitAir.com
Free shipping and 90 days return.

THE Best Air Purifiers - Free Shipping & Five Year Warranty.
www.RockyMountainAirPurifiers.com
Discover Pure Rocky Mountain Air®

Air Purifiers - Walmart.com
www.walmart.com · All Departments
Air purifiers. Get a new air purifier or HEPA air filter at a great low price. Save money. Live better. Walmart.com.

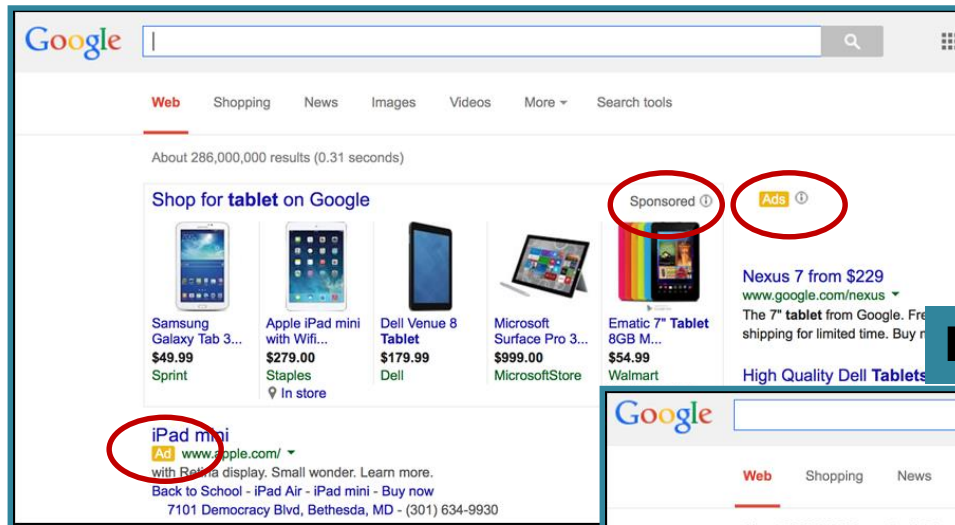
Ads related to air purifier

 Airfree® P2000 Air Purifier \$269.00 H2o Labs	 Oranair Erik M17 Air Purifier \$1245.00 Sylvane	 LightAir IonFlow Air Purifier - S... \$299.00 Compact Appli... Walmart.com	 Whirlpool Whispure Tru... \$299.99 Walmart.com
 Whirlpool Whispure S10... \$299.00 AllergyBuyers...	 General Air MicrobeSwall... \$89.99 FitlersFast.com	 Whole House Air Purifier \$920.00 Global Industrial	 Holmes Hepa-Type Air Purifi... \$49.99 Drugstore.com

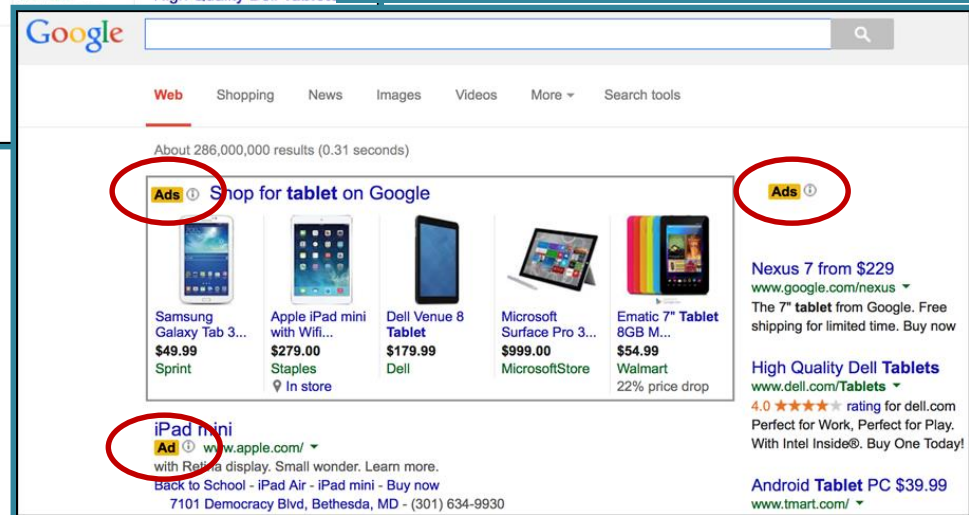
Allen A375 Air Purifier
www.AllenCorp.com/AllenA375
Ships Free within 24 Hours 60 Day Guarantee +Lifetime Warranty

Austin Air Purifier Sale
www.BetterHealthInnovations.com

Text Color that sufficiently contrasts with background color



Modified Ad Disclosures



Consistent labeling for ads on the same page

Modified Ad Disclosures

Google search results for "carpet cleaner". The search bar shows "carpet cleaner" with a search icon. Below the search bar, the "Web" tab is selected. The results are categorized under "Shop on Google". Three product listings are shown: Target (\$99.99), bissell.com (\$89.99), and Walmart (\$165.00). Below these, there are three text ads. The first ad is for "www.drimasters.net/" and is labeled "Ad" in a yellow box. The second ad is for "Stevens Chem Dry MD - Chem-Dry Carpet Cleaning System" and is also labeled "Ad" in a yellow box. The third ad is for "Rug Doctor Carpet Cleaners" and is not labeled. A map is shown at the bottom of the results.

Google carpet cleaner

Web Shopping Maps Images More

Shop on Google

Sponsored ⓘ

Target \$99.99

bissell.com \$89.99

Walmart \$165.00

\$75 - 2 Rooms Cleaned - Mention Ad To Receive This Offer

Ad ⓘ www.drimasters.net/

Call Now Same Day Service Available

Call

Stevens Chem Dry MD - Chem-Dry Carpet Cleaning System

Ad ⓘ www.stevenschemdrymd.com/

\$35/Room Call or Book Online Now

Call

Rug Doctor Carpet Cleaners

www.rugdoctor.com/

Rent or buy carpet cleaning machines and products.

A Cleaner Carpet Cleaner

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Google carpet cleaner

Web Shopping Maps Images More

Shop on Google

Ads ⓘ

Target \$99.99

bissell.com \$89.99

Walmart \$165.00

\$75 - 2 Rooms Cleaned - Mention Ad To Receive This Offer

Ads ⓘ www.drimasters.net/

Call Now Same Day Service Available

Call

Stevens Chem Dry MD - Chem-Dry Carpet Cleaning System

Ads ⓘ www.stevenschemdrymd.com/

\$35/Room Call or Book Online Now

Call

Rug Doctor Carpet Cleaners

www.rugdoctor.com/

Rent or buy carpet cleaning machines and products.

A Cleaner Carpet Cleaner

Segregating ads from other content

Google search results for "tablet". The page shows a mix of organic results and sponsored ads. A red bracket highlights the sponsored section.

Search results for "tablet" (About 286,000,000 results (0.31 seconds))

Shop for tablet on Google

Sponsored

- Nexus 7 from \$229**
www.google.com/nexus
The 7" tablet from Google. Free shipping for limited time. Buy now
- High Quality Dell Tablets**

Organic Results:

- Samsung Galaxy Tab 3...**
\$49.99
Sprint
- Apple iPad mini with Wifi...**
\$279.00
Staples
In store
- Dell Venue 8 Tablet**
\$179.99
Dell
- Microsoft Surface Pro 3...**
\$999.00
MicrosoftStore
- Ematic 7" Tablet 8GB M...**
\$54.99
Walmart

Other Organic Results:

- iPad mini**
Ad www.apple.com/
with Retina display. Small wonder. Learn more.
Back to School - iPad Air - iPad mini - Buy now
7101 Democracy Blvd, Bethesda, MD - (301) 634-9930

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Ads **Shop for tablet on Google**

- Samsung Galaxy Tab 3...**
\$49.99
Sprint
- Apple iPad mini with Wifi...**
\$279.00
Staples
In store
- Dell Venue 8 Tablet**
\$179.99
Dell
- Microsoft Surface Pro 3...**
\$999.00
MicrosoftStore
- Ematic 7" Tablet 8GB M...**
\$54.99
Walmart
22% price drop

Organic Results:

- iPad mini**
Ad www.apple.com/
with Retina display. Small wonder. Learn more.
Back to School - iPad Air - iPad mini - Buy now
7101 Democracy Blvd, Bethesda, MD - (301) 634-9930

Segregated Ads:

- Nexus 7 from \$229**
www.google.com/nexus
The 7" tablet from Google. Free shipping for limited time. Buy now
- High Quality Dell Tablets**
www.dell.com/Tablets
4.0 ★★★★★ rating for dell.com
Perfect for Work, Perfect for Play. With Intel Inside®. Buy One Today!
- Android Tablet PC \$39.99**
www.tmart.com/

Ad labels located in the top right-hand corner of a web page or ad grouping

f 800.436.0920

health

ADVERTISEMENT BY
Instaflex

Powerful Joint Discovery Revealed by Dr. David Katz on CBS "The Doctors"



ASU-NCRC HUMAN PERFORMANCE LAB, 2013

New research into joint health compounds has finally paid off. On November 15th, Dr. David Katz presented results from a new Clinical study on CBS's "The Doctors". The Clinical study at the North Carolina Research campus shows that one joint compound in particular can deliver significant, effective joint relief.

In the double-blind University clinical study, Instaflex supplement resoundingly beat the control group. Researchers at the North Carolina Research Campus concluded that Instaflex can deliver significant


Modified Ad Disclosure

f 800.436.0920

health

ADVERTISEMENT BY
Instaflex

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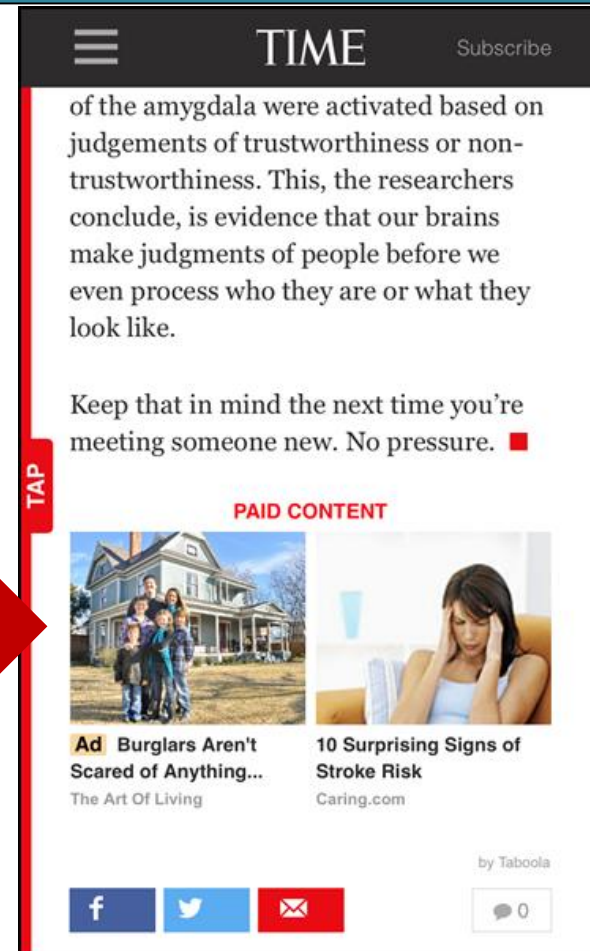
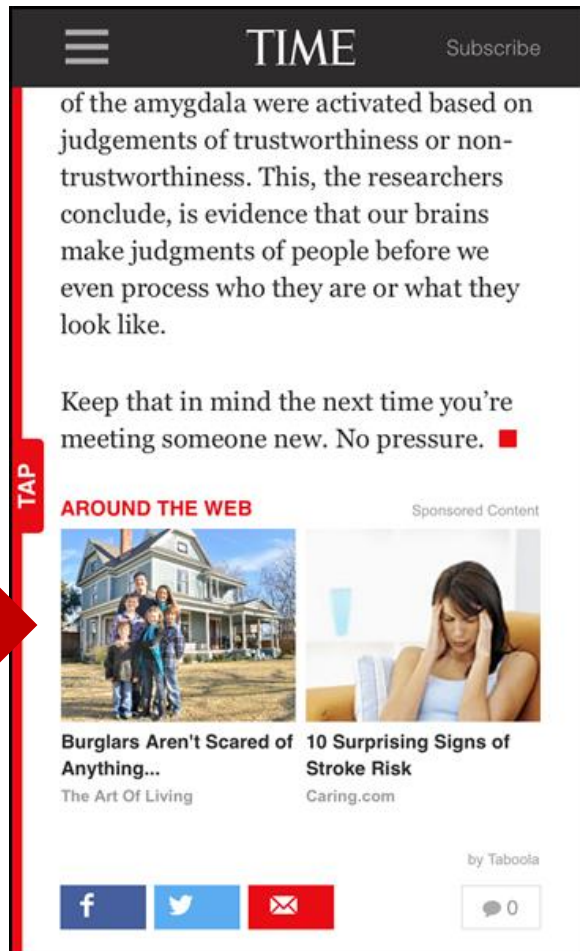
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Content recommendation widgets

Modified Ad Disclosure



Locate disclosures close to an ad's headline




RISE OF THE MACHINES
POSITIVELY CHARGED: 7 BEST ELECTRIC MOTORCYCLES OF 2014

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Tweet 7 Tweet 23

READ MORE




A WORLD RALLY BLUR
WITH THE 2015 SUBARU WRX, A RALLY CAR MATURES


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Like 92 Like 58

READ MORE

In-stream ads: ad disclosures located below the story headline and blurbs

Home Mail Answers Groups Flickr Tumblr Games Live Screen Mobile More

YAHOO! Search Web My Yahoo Sign In Mail

Manatee Keeps Watch Over Dog Before Rescue
A moment of kindness between two animals was captured by a Tampa police officer just before a colleague rescued a stranded dog from the Hillsborough River. Residents in Tampa's Seminole Heights.
Good Morning America

Knee & Shoulder Relief
Doctors speak out about shocking knee & shoulder relief.
Instaflex Sponsored

Bad, Bad Girl! Stephanie Beaudoin, 'World's Sexiest Crook' Facing 114 Charges, Creates Online Frenzy
Stephanie Beaudoin has been judged — by social media users — the world's sexiest crook. Facing 114 theft charges, her Twitter pic is all The Inquirer from RSS

Today 69° 53° Tomorrow 74° 60° Thursday 71° 58°

Quotes Yahoo Finance
S&P 500 1,988.17 -0.31%
NASDAQ Composite 4,522.43 -0.12%
Dow Jones Indust... 17,105.38 -0.39%

Enter company/ticker

Markets My Portfolio

Modified Ad Disclosure

Home Mail Answers Groups Flickr Tumblr Games Live Screen Mobile More

YAHOO! Search Web My Yahoo Sign In Mail

Manatee Keeps Watch Over Dog Before Rescue
A moment of kindness between two animals was captured by a Tampa police officer just before a colleague rescued a stranded dog from the Hillsborough River. Residents in Tampa's Seminole Heights.
Good Morning America

Ad Knee & Shoulder Relief
Doctors speak out about shocking knee & shoulder relief.
Instaflex

Bad, Bad Girl! Stephanie Beaudoin, 'World's Sexiest Crook' Facing 114 Charges, Creates Online Frenzy
Stephanie Beaudoin has been judged — by social media users — the world's sexiest crook. Facing 114 theft charges, her Twitter pic is all The Inquirer from RSS

Today 69° 53° Tomorrow 74° 60° Thursday 71° 58°

Quotes Yahoo Finance
S&P 500 1,988.17 -0.31%
NASDAQ Composite 4,522.43 -0.12%
Dow Jones Indust... 17,105.38 -0.39%

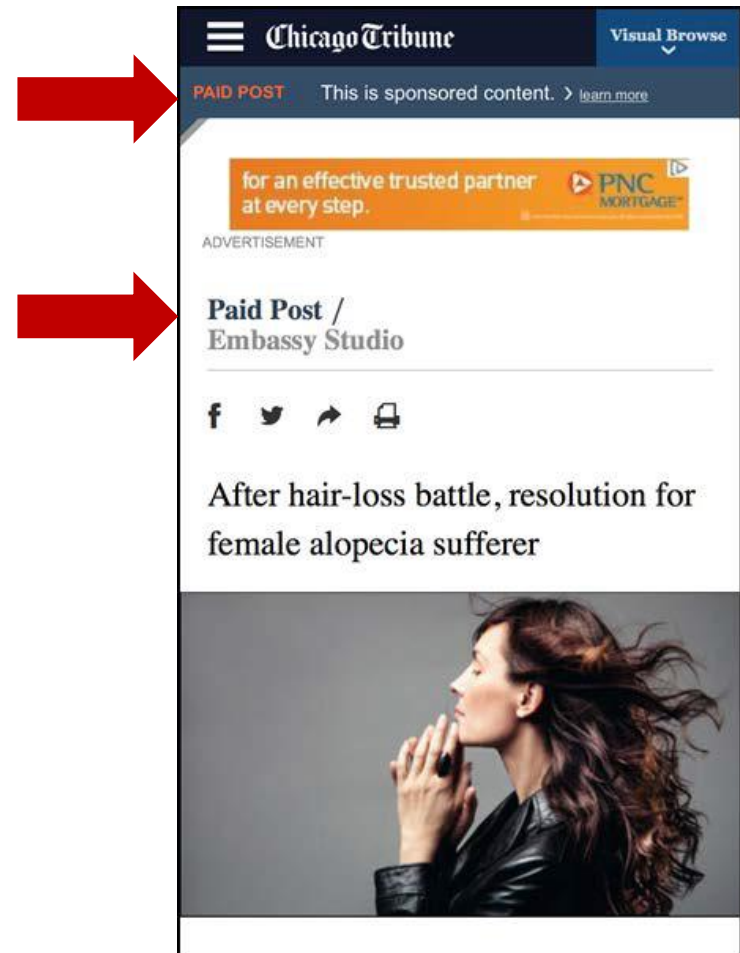
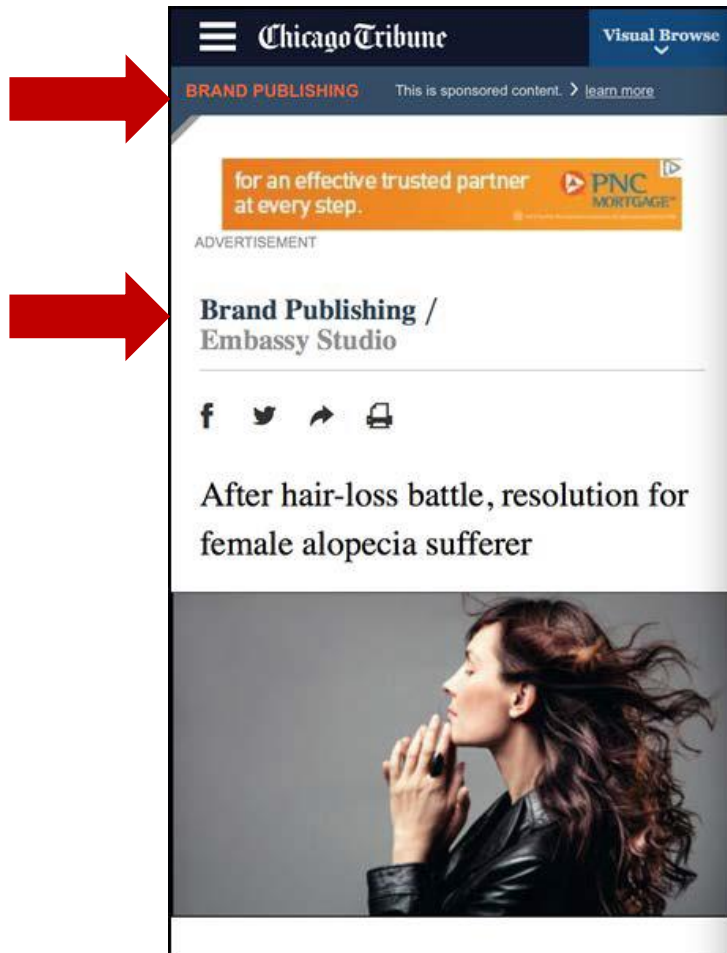
Enter company/ticker

Markets My Portfolio

Scores Yahoo Sports
NFL

Clarity of disclosure meaning

Modified Ad Disclosures



Net Impression

Modified Ad Disclosure

Chicago Tribune Visual Browse

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for an effective trusted partner at every step. PNC MORTGAGE

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After hair-loss battle, resolution for female alopecia sufferer



Chicago Tribune Visual Browse

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for an effective trusted partner at every step. PNC MORTGAGE

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Embassy Studio

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After hair-loss battle, resolution for female alopecia sufferer



Disclosure techniques on desktop and mobile device

Google


Web Shopping News Images Videos More Search tools


About 286,000,000 results (0.31 seconds)


Shop for **tablet** on Google


Sponsored


Ads

 Samsung Galaxy Tab 3...
\$49.99
Sprint

 Apple iPad mini with Wifi...
\$279.00
Staples
In store

 Dell Venue 8 Tablet
\$179.99
Dell

 Microsoft Surface Pro 3...
\$999.00
MicrosoftStore

 Ematic 7" Tablet 8GB M...
\$54.99
Walmart
22% price drop

Nexus 7 from \$229
www.google.com/nexus
The 7" tablet from Google. Free shipping for limited time. Buy now

High Quality Dell Tablets
www.dell.com/Tablets
4.0 ★★★★★ rating for dell.com
Perfect for Work, Perfect for Play. With Intel Inside®. Buy One Today!

iPad mini
Ad www.apple.com/
with Retina display. Small wonder. Learn more.
Back to School - iPad Air - iPad mini - Buy now
7101 Democracy Blvd, Bethesda, MD - (301) 634-9930

Android Tablet PC \$39.99
www.tmart.com/


Google


carpet cleaner


Web Shopping Maps Images More

Sponsored

Shop on Google

 Target \$99.99


 bissell.com \$89.99

 Walmart \$165.00

\$75 - 2 Rooms Cleaned - Mention Ad To Receive This Offer
Ad www.drimasters.net/
Call Now Same Day Service Available

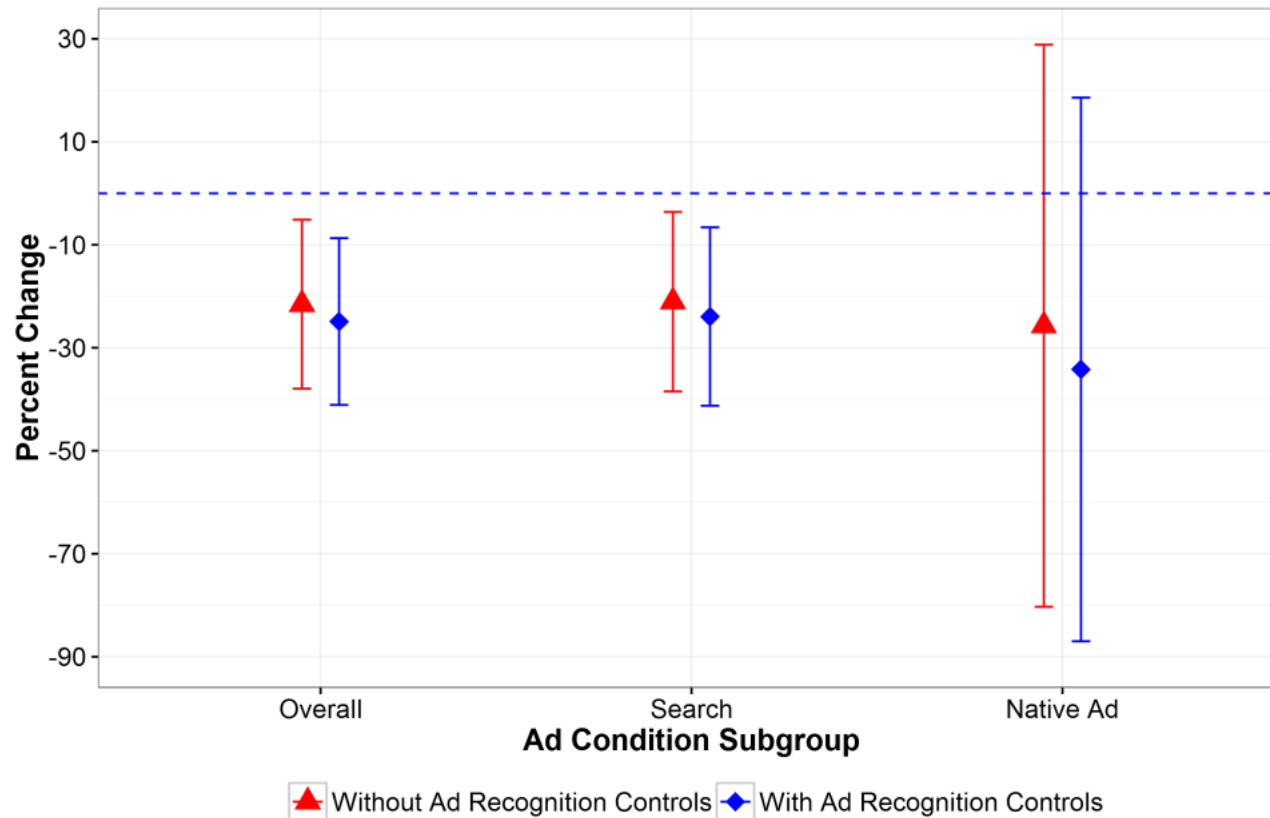
Stevens Chem Dry MD - Chem-Dry Carpet Cleaning System
Ad www.stevenschemdrymd.com/
\$35/Room Call or Book Online Now

Rug Doctor Carpet Cleaners
www.rugdoctor.com/
Rent or buy carpet cleaning machines and products.

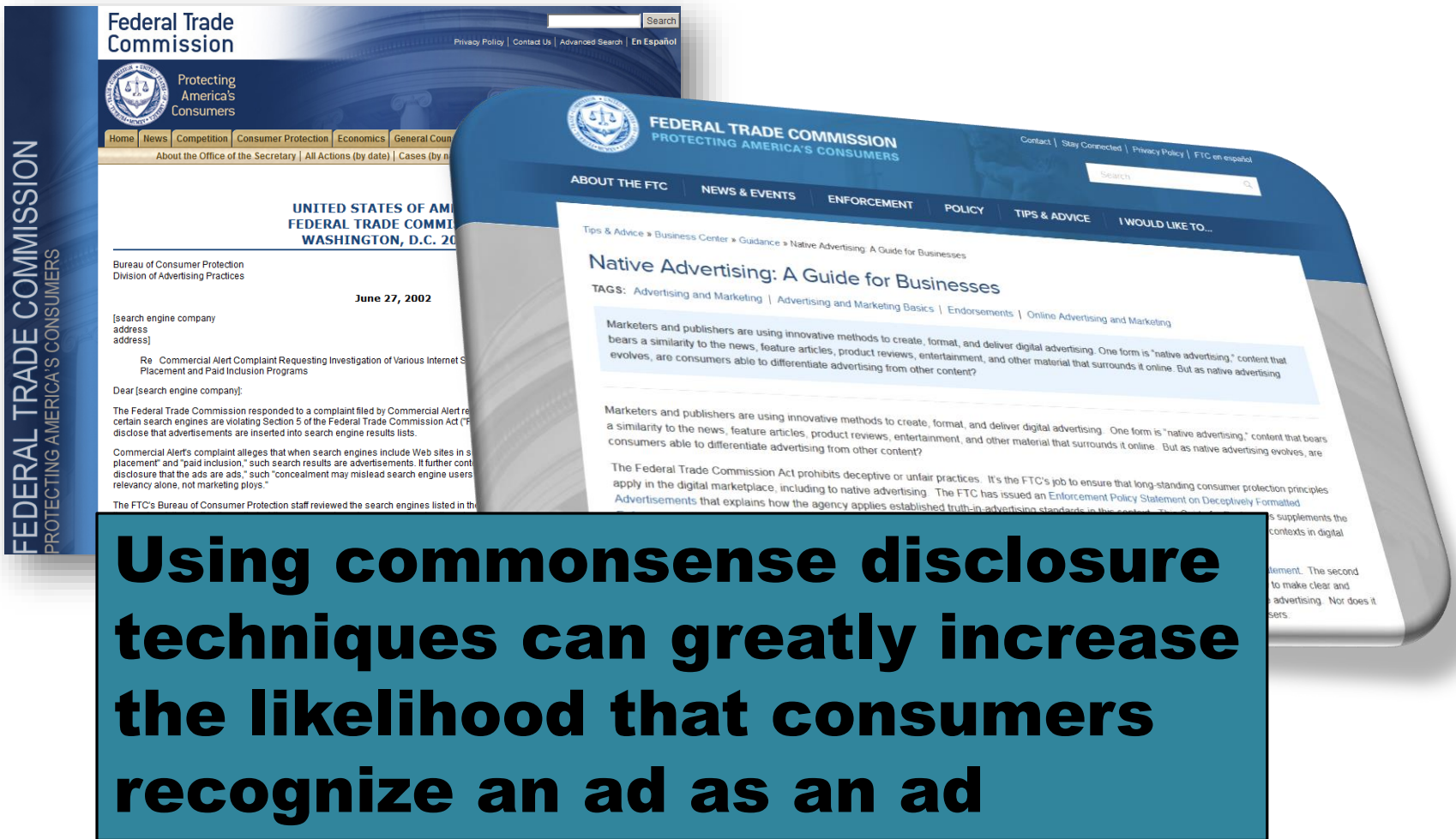


A Cleaner Carpet Cleaner

Estimated Effects of Ad Disclosures on Average Amount of Time Spent Looking at Ads



No correlation between ad recognition and amount of time spent looking at ads



Thank You!



lsullivan@ftc.gov

Journalism Competition and Preservation Act

- Introduced by Rep. Cicilline (D-NJ), ranking member of House Judiciary Subcommittee on Anti-Trust
- Bill would create a 4 year safe harbor from anti trust law to allow news organizations to collectively negotiate with “online content distributors”

Pros

- Extends conversation re dominance of platforms
- Pressure on Google/FB

Cons

- Perception of Old Media
- Applies only to news orgs
- Unlikely to move this year

Upcoming Events for DCN Legal and Legislative Committee

Tuesday, March 27 @ 3 PM (tentative) – Discussion of GDPR Compliance Challenges Facing Publishers

Tuesday, April 3 @ 3 PM (tentative) – GDPR Vendor Solutions

Tuesday, April 10 @ 3 PM - Legal and Legislative Committee call

Tuesday, June 12 Noon to 5 PM – Legal and Legislative Day