

Why Digital Marketing is Different

State Law Approaches to Address Digital Food Marketing to Youth

Food and beverage marketing that targets youth is fully integrated into print, radio, television, movies, schools, youth serving organizations and in the retail space. The rapid proliferation of digital devices and new media platforms is often described as a “shift” to digital. Traditional children’s media outlets like Nickelodeon have “gone digital,” and companies are shifting their media mix to encompass digital and mobile marketing (see Nickelodeon Case Study). Young consumers have not simply shifted away from traditional media, however, but rather “[e]ach month consumers are spending more time with more media, across all devices under the sun.”¹ This means that there are more and more opportunities to layer and reinforce food and beverage marketing to youth in educational settings, at home and while otherwise spending time with their friends in person, online or via mobile devices. The use of location data to tailor and target marketing messages in real time makes digital marketing campaigns that much more effective at maintaining and increasing sales of unhealthy foods and beverages.

Marketing is No Longer a One-Way Communication

Perhaps the starkest contrast between digital and traditional marketing is the way in which food and beverage marketing has gone from a one-way communication to a multi-faceted exchange. Traditional marketing tactics delivered a commercial message on television, radio or in print, and that was the extent of the communication, absent some additional action by consumers typically involving the telephone, mail or in-person interaction with a salesperson. These features of traditional marketing are reflected in state laws governing phone solicitations, promotions conducted through the U.S. mail and door-to-door sales practices. The new food and beverage marketing is delivered online and via handheld devices,



and is driven by huge caches of data that consumers generate online, on mobile devices and when they make purchases. Marketers have unprecedented access to a wealth of data about individuals, peer groups and demographic segments of the population that can be used to target and tailor marketing messages to maximize sales. Specific state consumer protection law provisions have yet to catch up with advances in digital marketing, but existing broad prohibitions on unfair and deceptive acts and practices can be utilized to protect children and teens from unfair and deceptive digital food and beverage marketing.

Digital Marketing is Harder for Youth to Identify as Marketing

The bulk of social science research into children’s ability to recognize marketing as commercial messages with persuasive intent has dealt with television advertising. Research has found that children can identify commercials by the age of 6, but children under 8 cannot understand the persuasive intent of television advertising.² A 2013 study compared the ability of children versus adults to identify advertisements on mock webpages.³ The mock webpages contained a total of 27 ads. Every adult in the study identified all ads shown. In stark contrast, 6-year-olds identified just one quarter of the ads, 8-year-olds about half of the ads, and 10-year-olds identified about three-quarters of the ads shown. The authors of the study concluded that “the developmental sequence derived from the television advertising research cannot be applied to children’s awareness of advertising in other media, because we can no longer assume that the ability to recognize an advertisement always precedes the ability to understand the purpose of advertising.”⁴

This study dealt with ads embedded in editorial webpages; one can imagine that websites for food and beverage brands, like www.frootloops.com, where the entire site's content is marketing, are even more difficult for children to identify as commercial in nature. Moreover, marketing delivered via handheld devices on small screens likely is even harder to identify. It is an established consumer protection law principle that marketing consumers cannot recognize as advertising is deceptive.⁵ Whether or not the target audience of children and/or teen consumers can even identify marketing that utilizes new media as advertising should be a starting point in the consumer protection analysis of potentially unfair or deceptive digital food and beverage marketing campaigns.



Targeting & Measurement

In digital media, marketing, sales, content, and measurement are intertwined. The same data collection capabilities online that permit single users to be targeted — regardless of where they may be — are also used to analyze how they respond to the marketing message. Real-time measurement of campaigns permit an advertiser to closely monitor how successful its effort is, and, if necessary, to make substantial or subtle changes. Through so-called marketing dashboards, a flood of data related to the behavior of consumers is collected, analyzed and made actionable. Consumers, especially teens, are unaware of how their activities and behaviors online are being gathered and measured by advertisers. Increasingly, individuals can also be tracked and targeted across platforms. A campaign that proved successful on a personal computer can be continued when the same user is on a mobile device. The amount and diver-

sity of data that are analyzed for measurement purposes can include minute actions of users (e.g., where their mouse is on a particular page, where they start and stop a video); the sites they visit and keywords used; what they buy and how much they spend; along with information related to their demographics (e.g., race, ethnicity, gender or age). Increasingly, online marketing activities are being tied together with data on actual sales of products. Through the evolution of “data management platforms,” a young consumer’s history and behavior can be compiled and updated on a regular basis for future targeting.

Path-to-Purchase

Digital food marketers are helping drive the shopping experience, using such tools as search, geo-location advertising, mobile coupons and viral peer-to-peer marketing to promote the sales process of a product or a brand. Google is among the digital marketing companies focused on what it calls “path-to-purchase.” Particular consumers are identified through a search or a click on a mobile ad as being interested in a product. Campaigns can be directed to those users and designed to get them into a store by providing them with a range of online experiences. The process is ongoing, sending a steady but subtle stream of branded messages to encourage the consumer to repeat the process. Advances in what are called “shopper sciences,” using technology and other new approaches to help grocery and retail stores more effectively promote their products are part of the path-to-purchase paradigm. As mobile phones morph into mobile wallets used for payment in stores, marketers will be able to identify actual sales with individual users.

Food marketers are in the forefront of companies using these practices. Examples include:

- Global snack food company Mondelez International has signed a data deal with Twitter, so it can use real-time information to promote its products.⁶
- Coca-Cola has developed a framework that

measures the “path to purchase starting before shopping begins, through the sale and then after the good is purchased.”⁷

- McDonald’s, KFC and others are using mobile applications (apps) and mobile payment systems designed to drive and measure sales.⁸

The path-to-purchase model of marketing integrates physical location, purchase and consumption history and prior engagement with marketing for unhealthy foods and beverages in ways that can seriously undermine public health efforts to reduce consumption of these products. As heavy mobile device users and the core demographic for junk food marketing, teens are prime targets for path-to-purchase marketing.

The Power of Social Marketing

One of the great strengths of digital marketing derives from the viral nature of the various and growing social media platforms. The two behemoths, Facebook (with more than a billion users) and Twitter (with about half of that), are all about sharing information within a user’s network. Even smaller social media platforms are significant for advertisers: Vine, an app that allows users to upload short videos, has about 40 million users and Instagram, a photo-sharing app, has about three times that number of users.⁹ Social media marketing predominantly comes from users to their network of friends and followers giving it the personal effect associated with word-of-mouth advertising. That is precisely what marketers want: information about their brands and products to be distributed through communications networks.

Layering of Media

Young people often use their mobile devices (smartphones and tablets) while using other media like television. According to research conducted by Google, 92% of teens use at least two devices simultaneously (e.g., TV, PC, smartphone or tablet) and 35% “use their PC, smartphone and TV at the same time.”¹⁰ A major snack

company executive noted that this “layering of media” means that “for the first time we have a media channel that can work in conjunction with other media channels.”¹¹ Thus, an impromptu event like a power outage at the Super Bowl, the most watched television event of the year, was transformed into a major digital food marketing opportunity when Oreo Cookies sent out a tweet with an engaging visual and the tagline “You can still dunk in the dark” (Figure #). Within one hour, Oreo’s tweet generated 16,000 re-tweets, 18,000 Facebook Likes and 5,000 Facebook shares.¹²

Conclusion

The fact that digital food marketing is harder for young children to identify than traditional marketing makes it potentially even more unfair and deceptive than traditional marketing tactics. The lines between commercial and non-commercial content is further blurred as traditional children’s entertainment companies like Nickelodeon evolve into elaborate digital marketing ecosystems. Young consumers’ use of computers and mobile devices reveal a vast amount of information that food marketers can track and use to target their marketing to boost consumption of their unhealthy products. The path-to-purchase marketing model exemplifies this concept by integrating consumer demographic information, location, prior product consumption and payment into a powerful mechanism to drive purchases. Social media marketing is designed get consumers to share commercial messages. It is most successful when young consumers share commercial content without realizing that they have become marketing proxies for large corporations. Digital marketing delivered on mobile devices, tablets and laptops also is being designed to work in conjunction with traditional media like television. These key differences between traditional food marketing and digital marketing targeting children raise a range of consumer protection concerns for youth.

CASE STUDY

Nickelodeon: From Television Network to Digital Marketing Ecosystem

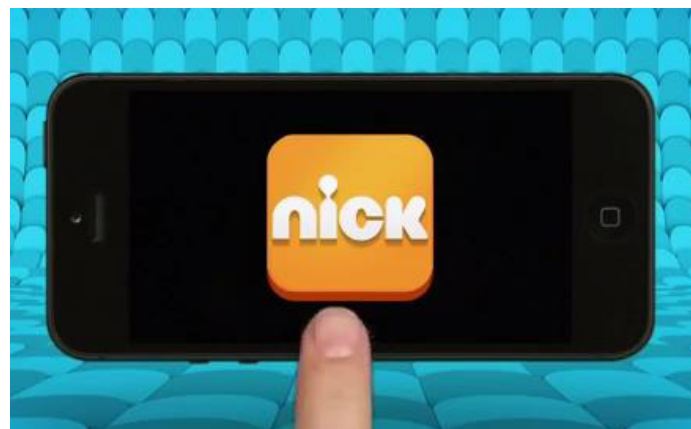
Nickelodeon, a subsidiary of mega-media company Viacom, is a major source of children's entertainment. The Nickelodeon television network is comprised of the channels Nickelodeon, Nick Jr. (for preschoolers), and TeenNick, and consistently reaches top ratings with child audiences. Nickelodeon "has been the number-one-rated basic cable network for 18 consecutive years."¹³ Nickelodeon is "the biggest source of food ads viewed by kids," displaying 26% of all TV food and beverage ads seen by children and adolescents.¹⁴ The overwhelming majority of these ads promote junk food to children. Nickelodeon has made some progress in improving the nutritional quality of foods marketed with 69% of advertisements in 2013 marketing unhealthy items as compared to 88% in 2005.¹⁵

Nickelodeon is much more than a successful TV network: the company has embraced new media to become a sophisticated digital marketing ecosystem. This expansion is not limited to simply moving television content to the Internet, but also includes developing a variety of digital media platforms to reach children.¹⁶ These platforms are of particular concern to child health advocates, because they offer far lengthier, engaging and interactive branded experiences than the traditional 30-second TV ad.¹⁷ Nickelodeon's digital transformation targets the youngest and most vulnerable viewers, as part of the company's goal to reach "the newest generation of kids, the post-millennials, born between 2005 to present."¹⁸

Nickelodeon's Current Digital Focus

Presently, Nickelodeon is a leading digital marketing organization and a key purveyor of junk food advertising to children. The company uses a variety of established and

cutting-edge techniques enabled by digital technology to deliver marketers' messages to children.



Dedicated websites

Nickelodeon websites are some of the most popular digital destinations for kids on the Internet. From July 2009 to June 2010, Nick.com was the most popular web site among children, with an average of 2.69 million monthly visitors among children aged 2-11.¹⁹ Nickelodeon's online universe includes websites for each of the network's channels and dedicated websites for popular shows such as iCarly.com, which reached a monthly average of 900,000 children during the same time period.²⁰ These sites are rich with features intended to engage children for periods far longer than the traditional 30-second TV ad. Such features include games, videos, logins to develop personalized profiles, and virtual worlds that allow children to explore elaborate and interactive online landscapes.

Nickelodeon's websites are a significant source of children's exposure to junk food marketing online: a recent study found that more than 1 billion food ads were displayed on Nick.com between July 2009 and June 2010, comprising 32% of all ads shown on the site. The same study analyzed the top 20 websites most visited by children and found that 84% of the food products advertised were for junk foods, and that Nick.com was the number one website.

Major food companies have made self-regulatory pledges via the Council of Better Business Bureau’s Children’s Food and Beverage Advertising Initiative (CFBAI) to only promote products that meet specified nutrition criteria to children under 13 in media where the audience is comprised of a certain percentage of children under 13 (e.g., 35%). Despite the large numbers of child visitors to Nickelodeon websites, and the astounding numbers of junk food ads shown, children under 13 were never more than 35% of the total audience composition for any of these sites.²¹ As a practical matter this means that CFBAI pledges do not technically apply to marketing featured on Nickelodeon websites because they do not meet the audience thresholds.²² This is a major self-regulatory gap.

Display advertising

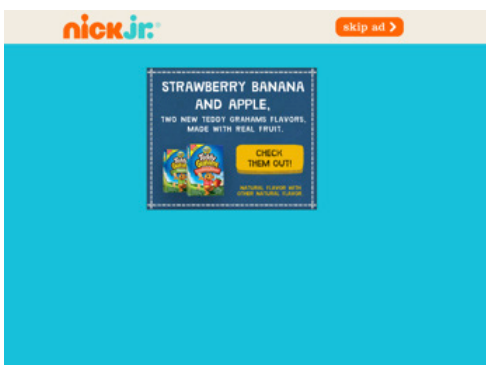


Figure 1: Nick Jr. Interstitial Ad Featuring Teddy Grahams

Food advertisements on Nickelodeon’s websites commonly appear as display ads, ranging from banners or sidebar ads to “interstitial” ads, which the viewer must watch before a webpage loads. A recent visit to the preschool-aged targeted NickJr.com included an interstitial ad for Teddy Grahams, promoting that cookie’s fruit content (Figure 1).

Even seemingly innocuous banner ads include interactive features designed to lure children’s attention. For

example, an ad may react as the user scrolls her mouse across the ad space (Figure 2). Display ads appear both on dedicated sites such as Nick.com, as well as on other Viacom properties, such as Neopets.com, that are intensely popular with children.

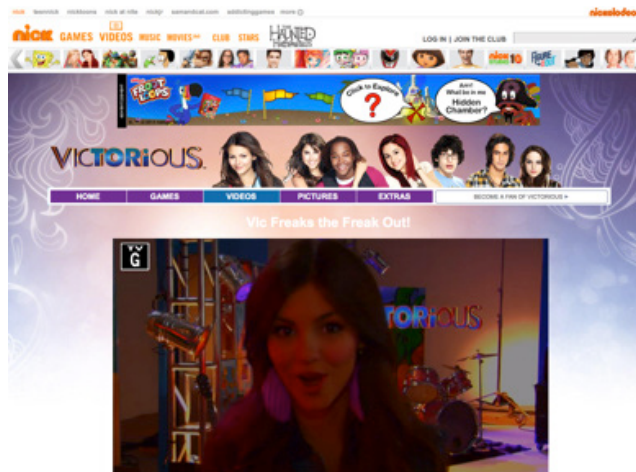


Figure 2: Nick Jr. Interactive Froot Loops Display Ad

Licensing characters for cross-promotions

A key element of promotional work, especially for introducing new food and beverage items, is the use of celebrity tie-ins. Tie-ins leverage a star’s popularity to help generate publicity and create goodwill toward the new product. The recent “iCarly iCook with Birds Eye” campaign illustrates the vast potential to use digital technologies to expand this marketing technique.²³ Jennette McCurdy, the star of the Nick show iCarly, acted as Birds Eye’s brand ambassador for its frozen vegetables. The campaign utilized Twitter, online video,²⁴ and an “iDish” gaming contest in which kids competed to create “whacky” recipes using Birds Eye’s Steamfresh products. One winner, with a “Yakimaniac Veggie Martians” recipe, was featured on an iCarly episode, and Ms. McCurdy Tweeted about the winner to encourage further submissions. Other digital media components incentivized product purchases: the Steamfresh Chef of the Week, for example, encouraged kids to submit photos of themselves cooking the recipes that were put on the site,

and kids (or parents) who entered a Birds Eye UPC code could gain access to special “crazy veggie videos.”²⁵

The campaign generated more than 40,000 sweepstakes entries, 16,000 recipe submissions and 255,000 page views on a dedicated micro website jointly hosted by Nickelodeon and Birds Eye.¹² It is important to note that the Birds Eye campaign was also a large-scale market research scheme to elicit child-generated content: Birds Eye plans to use the recipes submitted by children (and their parents) to guide the development of new child-targeted products.¹²

The iCarly campaign was a rare instance of a Nickelodeon marketing campaign promoting frozen vegetables. The network has a long history of licensing its characters to marketing unhealthy foods to children. For instance, the highly popular character SpongeBob Square Pants has been linked to junk foods including fast food children’s meals and pre-sweetened cereals.²⁶ The lessons learned from the highly successful iCarly campaign have enormous potential to be used to expand the company’s promotion of junk food.

Apps

Applications (apps) for mobile devices like tablets and smartphones are a core element of Nickelodeon’s child-targeted strategy going forward. The company estimates that some seventy percent of U.S. households have a mobile device, and that tablet use is growing faster among children than any other group.²⁷

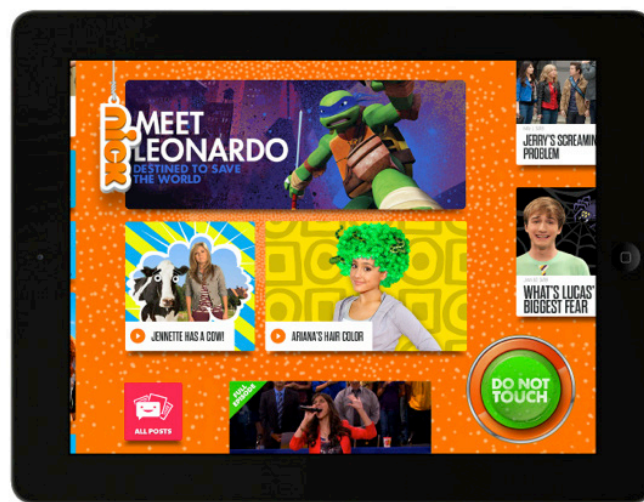


Figure 3: “Nick App” a multi-dimensional digital experience, not just TV episodes (iPad version)⁵⁰

Nickelodeon recently launched the “Nick App” that, according to executive Vice President and General Manager of Digital Media for Nickelodeon Steve Youngwood, is the first step in “creat[ing] a brand-new experience that begins to reimagine what a TV channel is for today’s digital kid.”²⁸ To that end, the Nick App delivers clips and full-length episodes, as well as a variety of interactive content such as games, a “Do Not Touch” button that releases surprise features, and a “favorites” drawer to save favorite content to encourage future interactions (Figure 4).²⁹ The app’s interface features an interactive series of tiles that children can click on and rearrange to create a “noisy, colorful smorgasbord of animated clips, irreverent music videos and the occasional deluge of the network’s trademark green slime.”³⁰ Nickelodeon has plans to generate content for the Nick App via its afternoon TV show, “Nick Studio 10,” that features a daily contest in which four children compete with each other live to be the funniest person that day.³¹

Initially launched via the iPad in February 2013, the Nick App was downloaded 400,000 times in its first week,³² and 1.3 million times by May 30, 2013³³ (it is now available for the iPhone and iPod Touch). The Nick App is proving to be far more engaging than Nickelodeon websites: users are spending on average “more than 20 minutes per day per unique visitor — 25% higher than for

Nick websites accessed on computers.”³⁴ According to Youngwood, the app is successful because it “creates a new platform unlike anything else available to kids today. The Nick App is the one place where kids can watch and play Nickelodeon and experience the complete fun and funny of our brand, wherever and whenever they want.”³⁵ The company is expected to release a Nick Jr. specific app targeting preschoolers by the end of the year.³⁶

Advertising is at the core of Nickelodeon’s app strategy. The medium is entirely ad-supported, as the apps are free to download. Presently, in-app advertising includes direct advertising, such as commercial breaks during episodes and clips; watching episodes and clips on the app requires viewing an equal amount of ads and content as on TV.³⁷ Apps also have the potential for further integration via features such as “advergames,” which integrate products and brands into the game.

Though the Nick app has just launched, there is concern over its potential to exploit the medium to target children with junk food advertising. For example, one of the earliest advertisers to take advantage of the app was the popular Disney movie *Croods*. This advertising link illustrates the potential for junk food marketing to children. Not only is *Croods* itself linked to multiple food industry promotions (including McDonald’s Happy Meals),³⁸ but entertainment tie-ins are also a major expenditure the food industry uses to push junk foods to children and adolescents.³⁹

What’s On the Horizon?: Emerging Digital Platforms

To maintain its position as a leading children’s entertainment company, Nickelodeon is preparing new platforms to extend its reach in the ever-changing world of digital media.

Internet-connected gaming consoles

In addition to apps for mobile devices, the future of Nickelodeon’s digital presence includes reaching young people through apps accessed on gaming consoles that allow users to view content via an Internet connection, such as Microsoft’s Xbox or Sony’s PlayStation. This is an important complement to reaching youth via mobile devices because on average, adolescents spend 1 hour and 13 minutes every day using video game devices, providing ample additional opportunities to reach this audience.⁴⁰ The app for Xbox 360, considered by Nickelodeon to be “the most relevant”⁴¹ for their target audience, was initially slated to be released June 25, 2013,⁴² but has been delayed and is expected to be released by the end of the year.

Importing content from the internet to TV

One of Nickelodeon’s most innovative strategies involves the show “AwesomenessTV” that debuted on Nickelodeon on July 1, 2013. The show is unique in that it intersperses sketch comedy content that was initially developed by and aired on the AwesomenessTV YouTube channel and original content developed for the TV show.⁴³ Awesomeness TV’s YouTube channel routinely ranks in the top ten of the top 25 YouTube channels.⁴⁴ The partnership between Nickelodeon and AwesomenessTV illustrates that the relationship between traditional TV and digital media is a two-way street. Not only can TV episodes and clips be distributed via digital devices, but content can also migrate from the Internet onto television. Though in its infancy, this innovation may spur additional opportunities for marketing to children that will continue to build upon the immersive and interactive nature of digital media.

Children as research subjects

A core element of Nickelodeon's approach to evolving its child-targeted digital marketing ecosystem is to glean information from its target audience: children themselves. Nickelodeon uses extensive market research on the "post-millennial" generation of children, classified as those born from 2005 to the present, to inform the techniques and content it develops. Nickelodeon recently touted its understanding that this cohort of children is part of a "Velcro family" structure in which parents are highly involved and perceived as heroes in their children's eyes. These children also prize humor as a trait so important it can be used as a "social currency."⁴⁵ Nickelodeon plans to exploit the insights mined directly from their audience, for instance, by innovating its delivery of comedic content. Instead of having separate content on each medium, the company intends to use popular bits from the Nick Studio 10 television show to feed the Nick mobile app and to bring popular content from the app to the show.⁴⁶ To the extent that any of this information is used to inform the development of advertisements for post-millennials, this research is extremely troublesome from a children's health perspective. The Institute of Medicine found that children 8 years old and younger – the same group targeted by Nickelodeon – is unable to understand the persuasive intent of advertising, rendering them extremely vulnerable to all marketing messages.⁴⁷ Moreover, research has shown that children up to 10 years old often cannot even identify advertisements embedded in webpages.⁴⁸ This vulnerability is further heightened by marketing designed by research about this cohort's desires, preferences, and intimate views of their family systems.

Conclusion

Nickelodeon has long been known for its successful children's television programming. To date, its marketing policies governing these shows and their popular characters to promote unhealthy foods to children have drawn the vast majority of attention from advocates for children's health.⁴⁹ It is clear that Nickelodeon has embraced a wide variety of Internet-based and mobile techniques that together constitute a digital marketing ecosystem used by junk food marketers to reach children. At the same time, Nickelodeon has not joined the CFBAI, the main food and beverage industry's self-regulatory system. The CFBAI also contains important shortcomings, such as the requirement that children aged 2-11 must be at least 35% of a website's audience to be considered child-directed media. This rule exempts Nickelodeon's websites that have exposed children to billions of food advertisement, the majority of which were for junk foods. As a result, even CFBAI member companies are able to exploit these gaps and use Nickelodeon's dominant online presence to target children with digital advertisements for junk food products.

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