Examining *The New York Times'* Compliance with Government-Issued Guidelines on Native Ads

Jordan L. Fusco

Strategic Communications
Elon University

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Abstract

Native advertisements—a form of paid media where the ad experience follows the natural form and function of the user experience in which it is placed—now dominate the world of online advertising. But publishers seem to have trouble interpreting exactly how the guidelines of the Federal Trade Commission define a proper native ad. now dominate the world of online advertising. But publishers seem to have trouble interpreting exactly how the guidelines of the Federal Trade Commission define a proper native ad. The author analyzed native ads published by The New York Times *to understand if its ads are deceptive. A content analysis was conducted of 36* New York Times *articles containing sponsored content. The findings showed that subjectivity plays a heavy role in the judgment of advertisements as they comply with government-issued guidelines. This case study will help to better understand the true nature of the native ad.*

I. Introduction

The migration of news from print to online has left traditional news organizations with little choice but to introduce paid content to their sites (Herrman, July 2016). Native advertising, the integration of a brand message into the style and format of content posted by a publishing service, is a way for publishers to seamlessly include paid messages in their website's content. (Couldry & Turow, 2014). One news organization that has become no stranger to native advertis-ing is *The New York Times* (Sebastian, 2014). When *The New York Times* posted an article spon-sored by Netflix in June 2014, communications professionals began contemplating what native advertisements on news sites meant for the future of American journalism (Sebastian, 2014). Now, just two years later, native advertising has become a much more accepted approach to ad-vertising.

Native ads are prevalent on the internet and most of the time unbeknownst to users (Wojdynski, 2016). Past advertisement techniques like pop-up ads used to be disruptive, which allowed viewers to easily recognize their paid nature and immediately remove them. But now there is a whole new quality to advertisements: native ads blend right in. If consumers do not recognize that the content they are consuming was paid for by an advertiser, are they being de-ceived? How do journalists, strategists, and advertisers create content that resonates with their audiences while ensuring the content is not misinforming them?

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Email: jfusco@elon.edu

Previous research has shown that only one-third of publishers comply with government-issued regulations of native advertisements (Swant, 2016). But there has been little exploration of the usage of native ads by legacy news organizations like *The New York Times*. This research conducted a content analysis of native advertisements produced by *The New York Times* to ana-lyze whether they comply with the regulations surrounding native ads. This research is a case study of the ways news organizations are creating sponsored content.

II. Literature Review

As users have become nearly immune to banner and display ads, advertisers have looked to alternative approaches that allow users to actively rather than passively engage with content (Conill, 2016). One method, native advertisements, has been used for many years but has just recently created concern as reputable news organizations, like *The New York Times*, have inte-grating them into their websites to promote more active user engagement (Couldry & Turow, 2014). Traditional online advertisements are purposely placed on a page to stand out from the site's native content, but native advertisements take the opposite approach by strategically blend-ing a message into the stream of the feed with as little disruption as possible (Campbell & Marks, 2015). Not only are these paid messages being positioned around the content in articles, but they are now mimicking the articles themselves (Couldry & Turow, 2014).

The purpose of native ads is for advertisers to latch onto the credibility and readership of a publication in order for their messages to be more actively consumed by readers (Conill, 2016). This establishes an almost symbiotic relationship between advertisers and publishers. But if readers feel betrayal as they continue to discover native ads, this advertiser-publisher relationship could evolve into a parasitic one where the advertiser thrives at the expense of the publisher.

Sponsored Content vs. Branded Content vs. Paid Posts

The concept of native advertising has inspired the use of a few different terms that are important to define. The first, "sponsored content," is a "text based message typically embedded in the context of a website and related to the subject matter of the site" (Becker-Olsen, 2003, p. 17). Sponsored content is what makes up a native ad. Advertisers pay to ensure their message is communicated the way they want (Wojdynski, 2016). Publishing companies like *The New York Times* have established their own in-house content-creating studios dedicated solely to the craft-ing of messages paid for by advertisers. A journalistic approach is taken to the distribution of these paid messages, blurring the line between what is and is not sponsored content (About Us, 2016).

"Branded content," another type of content that makes up native ads, achieves its goal when its targeted audience gains some new element of knowledge or new feeling toward a brand (Gray, 2006). This knowledge just happens to be acquired through a message funded by an ad-vertiser. Effective branded content is relevant to the reader, entertaining and in alignment with the publisher's values (Gray, 2006). News organizations using native ads are forced to build both engaging and relevant branded content if they want their readers to continue to find purpose in reading their content (Clark, 2008).

Another important term, in relation to this research analyzing *New York Times* articles, is "paid posts." The term paid post often appears in banners used frequently by The *New York Times* and placed at the top of a page above the article's title (Somaiya, 2013). Arthur Sulzberger Jr., CEO of *The New York Times*, sent a letter to his employees discussing the future of native ad us-age at the company (Kelly, 2013). The letter promises that readers will be notified with a paid post statement explicitly displayed inside a colored banner and written in a font different from the font of the site's true content (Kelly, 2013). But is this banner clear enough for all readers to be informed about the source and purpose of the article that is posted?

Encountering a Native Ad

Now there are a variety of ways for readers to come in contact with sponsored ads; one of the most common ways is through Facebook. A study completed by Pew Research Center showed that 62% of U.S. adults get their news from social media, and 66% of Facebook users get news on the site, proving that Facebook continues to act as a crucial touch point for news organi-zations in their readers. ("News Use

Across", 2016) Facebook's newly developed system to help advertisers get their content posted on its site shifts the relationship between publishers and ad-vertisers (Herman, July 2016). Publishers like *The New York Times*' in-house branding agency T-Brand Studio now only create the content used for distribution, and leave it up to the advertisers to get the content placed on media sites. Because a publisher's focus is concentrated on the content itself, strategy is now more critical than ever.

Church vs. State

In the past, traditional newsrooms were empowered by their self-reliance and rejection of ad agencies and commercialization. But as these newsroom dynamics have evolved, the strong-hold of sponsors on journalists leaves writers with little room to maintain journalistic integrity (Conill, 2016). Writers used to feel in control of their work, and stood true to the values of the publishing companies they represented (Conill, 2016). Readers responded to the journalists' atti-tudes by showing their trust and loyalty to the publication (Conill, 2016). Now that profits are no longer driven by sales alone, legacy news organizations must rely on the digital ads placed on their sites (Conill, 2016). The "Iron Curtain"or 'Great Wall" between publishers and advertisers has continued to thin, and journalists struggle to find a compromise with advertisers (Conill, 2016). Readers' trust is fading as they lose the ability to recognize the purpose and source of the content posted by their favorite news providers (Conill, 2016).

To sustain their reputations, publishers must stay true to their values by upholding their promises and ensuring readers that their articles do not contain too much sponsored content (Conill, 2016). Readers expect that editorial content is reported objectively (Kane, 2015). But the difference between sponsored and non-sponsored content is not always obvious to the average editorial-reader. One Netflix-sponsored article written by *The New York Times* brand studio stirred up a dialogue about the wall between "church and state." Sebastian Tomich, vice presi-dent of advertising and branded content for *The New York Times*, was interviewed about the use of branded content in this particular article (Kane, 2015). He explained, "We are not portraying native ads as journalism, and we are not creating journalism. We fall squarely in the infotainment space. With what we did with the Netflix native, it wasn't investigative reporting, which is real journalism" (Kane, 2015, p. 53).

Compliance with Federal Trade Commission Guidelines

Because native ads can be crafted in so many ways and interpreted differently by differ-ent readers, the United States government stepped in to define exactly what an appropriate native ad looks like. The U.S. has implemented a set of guidelines enforced by the Federal Trade Commission (FTC) that demands transparency from advertisers and ensures that customers have enough information about a product to make informed purchasing decisions. These guidelines, though, are used only to supplement the understanding that the government believes advertisers already have of the dos and don'ts of constructing ads (Pike, 2014). The FTC has hoped that ad-vertisers will regulate their own posts according to the guidelines, but simply crossing its fingers and hoping for the best has proved to be an ineffective way to guarantee that publishers will abide by the rules (Pike, 2014).

A study conducted in 2016 by advertising insights company MediaRadar showed that on-ly one-third of publishers comply with government-issued regulations of native advertisements (Swant, 2016). Highly reputable sources have been questioned about their usage of native ads (Swant, 2016). Lord & Taylor, for example, was recently accused of neglecting to provide any disclosures on both an editorial published by Nylon magazine, and Instagram photos posted by 50 fashion influencers it sponsored in early 2015 (Tadena, 2016). The Lord & Taylor case is now posted on the FTC's website for publishers to reference when analyzing their own ads for com-pliance with the guidelines.

Although the content in native ads is "inherently commercial," it is consumed in a way that readers cannot always recognize its intentions (Wojdynski, 2016). If readers struggle to de-termine the source or the purpose of content they are viewing, that article may be considered de-ceptive (Wojdynski, 2016).

Deceptive Advertising

What is deceptive advertising? An article published in the *Journal of Business Ethics* by Carson, Wokutch, and Cox (1985) explained it well: "Since the early 1900s the American Advertising Federation has waged a truth-in-advertising campaign to set guidelines for the industry. In its *Advertising Code of American*

Business it declares that 'advertising shall tell the truth, reveal significant facts, the concealment of which would mislead the public'" (p. 94). Advertisers must be careful not to mislead their audiences in order to avoid compromising the morals of the com-panies they represent.

This raises the question: Is deceptive advertising immoral? Carson et al. (1985) believed that deceptive advertising is wrong because it hurts consumers by relaying false information that influences their purchasing decisions. They also believe that if deception was acceptable, com-panies would be operating on a foundation of lies and deception, and if deception was permitted, trust would no longer be as valued.

In conjunction with Carson's research, Attas (1999) proposed that deceptive advertise-ments themselves are not the issue, but that it is the allowance of deceptive advertising that has consequences. However, Attas argued that deceptive advertising only becomes immoral if the ad produces a negative behavioral response from the consumer. Unless an unwanted action has tak-en place, a deceptive ad is not considered to be harmful. He also argued that misleading advertis-ing should be differentiated from deception and lying. Deception and lying both intend to mis-lead the consumer, whereas misleading ads can accidentally cause the consumer to misinterpret the information.

Legally and in the context of the FTC, the idea of deception is centered on the consum-er's understanding of the ad rather than the advertiser's intentions (Attas, 1999). The FTC states that deceptive advertising occurs when "consumers acting reasonably under the circumstances are misled about its nature or source, and such misleading impression is likely to affect their de-cisions or conduct regarding the advertised product or the advertising" ("Enforcement Policy," n.d.).

Publishers, therefore, are expected to consider all of the potential interpretations of an ad when integrating it into their site in order to uphold their reputations. What happens when users recognize that content is sponsored, but no disclosures are in place? The consumer often assumes the publisher is purposefully deceiving readers, and loses trust in the organization (Campbell & Marks, 2015).

Ethical Advertising Principles

If publishers are intentionally deceiving their readers, are native advertisements unethi-cal? The Institute for Advertising Ethics (IAE), an organization administered by the American Advertising Foundation (AAF), has deployed a set of principles that specify what ethical adver-tising entails. The principles relevant to native advertising include 1) There must be a clear sepa-ration between sponsored content and native content, and 2) It must be clear when an advertiser is paying to promote and idea or product. If consumers believe that a promoted product is being endorsed based on the personal opinion of the publisher, they may make different purchasing decisions than if they knew the product was promoted by an advertiser (Snyder, 2011).

If advertisers fail to follow the principles laid out by the IAE, their native ads may be considered unethically. To ensure that all advertisements are published ethically, the FTC sug-gests that publishers are transparent and provide clear and conspicuous disclosures to all of their content containing native advertisements ("Native advertising," 2015).

Clear & Prominent Disclosures

Because of the nature of native ads, the FTC looks at the full effect of an ad rather than specific elements of it when analyzing whether the ad is deceiving. Not only is the content itself analyzed, but the placement and formatting of the ad is examined as well. The FTC looks at the 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 closer the native ad is to the style and content of non-advertising items on the publisher's site, the more imperative it becomes for readers to be informed that the post is sponsored ("Native advertising," 2015).

With proper disclosures, consumers can interpret the content with scrutiny and make in-formed purchasing decisions (Wojdynski, 2016). Placement, prominence, and clarity are the three elements that the FTC uses to determine whether a disclosure is appropriately placed in a native ad. If the disclosure does not follow these guidelines, the FTC considers it not clear ("Na-tive advertising," 2015).

In the study about native ad usage conducted by Media Radar, two-thirds of the publish-ers it analyzed did not use disclosures that complied with FTC guidelines. Even if publishers did attempt to inform their audiences about their ad's sponsored nature, the posted labels were either incorrectly positioned or worded (Swant, 2016). With the exposure of so many FTC-guideline offenders, it is natural to question the deceptiveness of native ads published by highly reputable news organizations. Readers should be informed about the ways their favorite news sources are integrating paid content into the articles the readers are consuming so they can act accordingly.

Consumers have faith that the information output by the media is accurate and true. But as the public becomes more aware of the use and deceptiveness of native advertisements in news organizations, the future of American media could be at serious risk. This study analyzed if *The New York Times*, an early adopter of native advertisements, complies with government-issued guidelines to examine whether the information output is deceiving its readers. To guide the anal-ysis, the following research questions were posed:

RQ1: Are *New York Times* native advertisements using proper disclosures?

RQ2: Are *New York Times* articles with native advertisements distinguishable from *New York Times* articles with non-sponsored content?

RQ3: Do *New York Times* native advertisements comply with FTC guidelines?

III. Research Methods

A quantitative content analysis was conducted to analyze all elements of 36 *New York Times* sponsored articles that relate to compliance with FTC guidelines and decide if the articles are ultimately deceptive or published ethically. Quantitative research was completed in order to measure whether each article complied with the specific elements laid out by the FTC. This ap-proach allowed the researcher to note specifically which guidelines were and were not complied with, and to quantify whether *New York Times* articles containing native ads are providing ap-propriate disclosures.

Sample

The author selected 36 of the 38 articles posted on the website of T-Brand Studio, the in-house brand making unit of *The New York Times*. T-Brand Studio creates the sponsored articles and publishes them on its site, specifically on its “Our Work” page. The 38 articles on the T-Brand Studio’s “Our Work” page are a compilation of works selected by the studio to showcase some of its best work. The 36 articles on this page were examined because this study was inter-ested in looking at a large group of the pieces that the studio felt were exemplary works and rep-resented what its typical pieces looked like. The two remaining articles were not used because they were duplicates of articles already posted on the site.

Coding Procedures

Due to the ambiguous nature of native advertisements, publishers have to walk a fine line when crafting effective sponsored content based on the regulations protecting the rights of the consumer. Native ads purposely mimic the style, function, design, and language of the non-sponsored content on the site they are published (Couldry & Turow, 2014). To be sure the reader recognizes when content is sponsored, the FTC focuses on two main factors that determine whether native advertisements are published properly: clear and prominent disclosures and dis-tinguishability from non-ad content. With proper disclosures and distinct sponsored content con-sumers can interpret content with scrutiny and make informed decisions about the information they consume (Wojdynski, 2016)

According to the FTC, any article containing sponsored content must include a disclosure that is visibly prominent and use wording that allows a reader to understand that the content is sponsored. If the disclosure does not satisfy these requirements, the FTC considers the disclosure not clear or prominent. Proper disclosures makes up the first of two main elements the FTC uses to determine compliance. Additionally, publishers can ensure that readers are informed about the intention of the sponsored content by keeping the ad distinguishable from the non-sponsored content (“Native advertising,” 2015).

The unit of observation in this study was each article. The categories and subcategories used in the coding process were selected directly from the FTC’s description of properly made native advertisements.

The two main coding categories are “disclosures” and “distinguishability” (Refer to Appendix for a detailed coding sheet.)

The Disclosures category was further divided into five subcategories based on how the FTC determines if a disclosure is appropriate in a native ad: Placement, Amount of Disclosures, Prominence, Clarity of Meaning, and Wording (“Native advertising,” 2015). Each article was given a score in each of these subcategories based on how much it is reflective of the specific guidelines determined by the FTC. The scores of each subcategory were added up to equal the overall score of the Disclosures category for an individual article. Once each article’s score was determined, it was added up with the total scores of all 36 articles examined in this study.

1) The “Placement” subcategory can score up to 1 point. If the disclosure is placed on or near the focal point of the page, in front of or above the headline, or if it is individually la-beled as paid content when the ad is mixed into native content, it scored 1 point. When the disclosure is far above, to the right of the headline or not near the headline, then it was as-signed 0 points.

2) In the “Amount of Disclosures” subcategory, if there is a disclosure on both the top and the bottom of the article it was awarded 2 points, if it contains only one disclosure on either the top of bottom it was awarded 1 point and if it does not contain a disclosure at all it was awarded 0 points.

3) The “Prominence” subcategory can garner a maximum of 3 points. When a disclosure contained the following three elements, it scored all 3 points: a) text that strongly contrasts with the background (lighter font color with a darker background), b) a border that sets itself from surrounding content, c) and a sufficiently saturated background setting. If the disclosure con-tained two of these elements it received 2 points, if it contained one element it received 1 point, and if it did not contain any of the elements it received 0 points.

4) The “Clarity of Meaning” subcategory can receive a maximum of 1 point and relates to technical or industry jargon, terms that customarily have different meanings to consumers in other situations, unfamiliar icons or abbreviations, company logos or brand names accompanied by a clear text disclosure, and company logo or brand names unaccompanied by a clear text dis-closure. If the article has any of the disclosure elements above, this subcategory received 1 point.

5) The “Wording” subcategory scored 1 point when the wording in the disclosure matched with the specific wording provided by the FTC: This subcategory stipulates that the dis-closure should contain the words, “Ad,” “Advertisement,” “Paid Advertisement,” or “Sponsored Advertising Content.” If the disclosure did not contain these words, it received 0 points in this subcategory. The FTC’s website states, “Terms likely to be understood include ‘Ad,’ ‘Adver-tisement,’ ‘Paid Advertisement,’ ‘Sponsored Advertising Content,’ or some variation thereof” (“Native advertising,” 2015). Because the “some variation thereof” was ultimately subjective, the researcher chose to include the four terms specifically stated on the site.

As a result of the scoring of each subcategory, one article can score up to 8 points in total in the Disclosures category. Because there are a total of 36 articles analyzed in this study, all ar-ticles combined can score a maximum of 288 points.

The “Distinguishability” category is measured whether a native ad is distinguishable from a typical non-sponsored NYT article by looking at how similar the ad is to non-ads in style, subject matter, and placement. This category was divided into three subcategories:

1) The subcategory “Format” (Max 5 points) looked at the five elements of font, colors, spacing, image style and interactivity level of the sponsored content in the articles. If all of these elements are different from that of the non-ad content, the subcategory was given a score of 5 points. This subcategory was assigned 1 point for each element that differed from that of the non-ad content. The factors that determined Interactivity in the study’s coding process included image/graph/chart movement, or any type of media that required readers to scroll, click or move their cursor.

2) The “Subject” subcategory (Max 1 point) looked at whether the subject in the native ad was similar to the types of articles written by *The New York Times* in its four main article types: News, Opinion, Arts or Living. If the subjects of the native ads were different than these 4 *New York Times* article types, this subcategory garnered 1 point. This subcategory was made be-cause according to the FTC, the topic of a native ad may be a contributing factor in the distin-guishability between the ad and a traditional *New York Times* article. Additionally, because there are multiple ways for users to land on a sponsored article, it is important for certain elements, like the subject, to be distinctly different from a non-sponsored article (“Native advertising,” 2015). A typical viewer most likely comes across sponsored articles as they appear in a list of

five suggested articles in two main locations on *The New York Times* site. The first location is towards the bottom of the home screen, below a horizontal bar in a thin blue border with the title “From Our Advertisers.” The second is on the right side of the screen throughout the pages of the site, boxed off by a thin blue border with the same title “From Our Advertisers” (Bruni, 2016).

3) Lastly, the subcategory “Content Placement” (Max 1 point) looked at if the sponsor or product/service was mentioned within the article or as an ad placed around the article. If these are mentioned separate from the article or is the article itself, the subcategory was assigned 1 point. If placed within the native content it received zero points.

As a result of each of the three subcategories, an individual article could receive a max-imum of 7 points in the Distinguishability category; the 36 articles, up to 252 points.

With the combination of the Disclosure and Distinguishability categories, a single article could receive a total possible maximum score of 15 points; the 36 articles combined up to 540 points.

IV. Results

When it comes to the entire Disclosure category, the 36 articles scored a total of 212 points out of the maximum 288 points (73.6%), as shown in Table 1.

Table 1. Compliance with FTC Disclosure Guidelines by *New York Times* articles

Disclosure	Score/Maximum	Percent (%)
Placement	36/36	100%
Amount of Disclosures	70/72	97.2%
Prominence	69/108	63.9%
Clarity of Meaning	36 /36	100%
Wording	1 / 36	2.8%
Total	212 /288	73.6%

Notes. The maximum subcategory score is calculated as (the maximum score an individual article can receive) x (the number of articles, 36).

Every article received perfect scores in the Placement, Amount of Disclosures, and Clari-ty of Meaning subcategories.

Three out of 36 articles (8.3%) scored 1 point in Disclosure Prominence category while the remaining 33 articles (91.7%) scored 2 points and none of the articles scored the full 3 points. Therefore, the FTC compliance level of disclosure prominence of these articles was 63.9% (69 out of the maximum 108 points).

Only one article used the wording deemed appropriate by the FTC: it used the word “Ad-vertisement.” Of the other articles, 14 (38.9%) of them used “Paid post,” 15 (41.7%) used “Paid for and posted by” with the sponsor’s logo underneath, and 6 (16.7%) used “Paid for and posted by (brand name)” with the sponsor’s logo underneath.

When it comes to the entire Distinguishability category, the articles scored a total of 224 points out of the maximum 288 points (88.8%), as shown in Table 2.

Table 2. Compliance with FTC Distinguishability Guidelines by *New York Times* articles

Distinguishability		Score / Maximum	Percent (%)
Format:	Font	36 / 36	100%
	Colors	34 / 36	94.4%
	Spacing	33 / 36	91.7%
	Image Style	33 / 36	91.7%
	Interactivity	34 / 36	94.4%
Subject		18 / 36	50%
Content Placement		36 /36	100%
Total		224 / 252	88.9%

Notes. The maximum subcategory score is calculated as (the maximum score an individual article can receive) x (the number of articles, 36).

Among the five components of Format, fonts in 36 native ads could be distinguished from the fonts used in classic *New York Times* non-sponsored articles; the other four components, colors, spacing, image and interactivity, each received scores 91.7% of compliance rate or above, as shown in Table 2. Regarding the Subject subcategory, only 18 of the 36 articles (50%) were written about subjects distinguishable from what *The New York Times* sections typically cover in its News, Opinion, Arts & Living sections. In the Content Placement subcategory, every article used content placement that allowed the native ad to be distinguishable from a classic, non-sponsored *New York Times* article.

All articles received individual scores between 9 and 13 with the highest possible score of 15—(a maximum Disclosure score of 8) + (a maximum Distinguishability score of 7). Eighteen articles (50%) scored 12 points out of the maximum 15 points (80.0% of compliance rate) and 13 (36%) scored 13 points (86.7% of compliance rate). As a result, 31 articles (86%) of the articles abided by the FTC guidelines by at least 80% of compliance rate. The total compliance rate stood at 81.3%, when the Disclosure and Distinguishability categories were averaged.

V. Discussion

This study was an examination of how *New York Times* articles containing native advertisements comply with government-issued rules and regulations. The research performed a case study on one of the journalism industry's top media outlets to get a deeper look into the evolution and intentions of traditional American journalism ("Mashable tops list," 2010).

When examining the results of the content analysis, a few major patterns were observed. Two main elements of the "Disclosures" category and one main element of "Distinguishability" category received significantly lower scores than all the other elements in the study.

Only one of the 36 articles used proper disclosure wording according to FTC standards. Disclosure wording is one of the most essential parts of an advertisement's transparency, as it informs readers that the content they follow is paid for ("IAB," 2015). This research found only the four specified wording examples provided on the FTC website in the coding process, but if all articles with the term "paid" were considered to comply with the Disclosure guideline, *The New York Times*' compliance rate goes up to 100% in the Wording subcategory, and from 73.6% to 85.8% in the overall Disclosure category.

Disclosure Prominence also proved to be an issue for many of these articles. None of the articles achieved all three requirements—text contrast, a separation border, and a saturated back-ground—needed for accurate disclosure prominence. For readers to discern native ads from gen-uine content, only one of three prominence criteria would be enough to prevent readers' misun-derstanding. In this sense, all articles (100%) complied with the disclosure guideline.

Half of the articles contained content similar to the subject of a traditional *New York Times* ad, which could be a factor contributing to the reader's confusion about the difference be-tween a sponsored and a regular *New York Times* article. The four broad categories of topics written about by *The New York Times* (News, Opinion, Arts, and Living) cover a very wide range of topics that any ad or news article could address. Also 50% of articles were written simi-larly to what these four sections cover. However, it is unlikely that readers would misunderstand each article's purpose if the other guidelines are complied with. Because deceptive advertising occurs when consumers are misled about an ad, disclosures and native ad distinguishability must be produced accurately enough for a reader to understand the article's function ("Native advertis-ing," 2015).

The IAE has determined that an ad is ethical when there is a clear separation between sponsored and native content, and when it is clear when an advertiser is being paid to promote an idea or product (Snyder, 2011). The FTC's demand for publishers' transparency through clear and conspicuous disclosures and distinguishability of elements like font, color and subject leads to automatic compliance with ethical guidelines deployed by the IAE. Therefore, if an ad follows the FTC's guidelines, it is probably published ethically.

Limitations

The average reader will initially encounter the articles directly on *The New York Times* website, rather than the website of its in-house T-Brand Studio, which compiled exemplary *New York Times* native-ads. The current study analyzed native ads on the T-Brand Studio website ra-ther than those on *The New York Times* website. Where the reader encounters native ads in the context of other content, the result have been different if the author had analyzed native ads di-rectly from *The New York Times* website.

Additionally, the 36 articles selected in this study were taken directly from the "Our Work" page of the T-Brand Studio's website. This selection of articles are not an accurate repre-sentation of the articles published on *The New York Times* website because they were chosen by T-Brand Studio as a small sample of its work.

Also publishers don't have to comply with the FTC guidelines at a 100 percent level as long as readers are able to "differentiate advertising from other non-sponsored content?" ("Native advertising," 2015) This is why the FTC guidelines repeatedly state the importance of looking at the full effect of an advertisement by analyzing the way all of the elements work in conjunction with one another rather than measuring the individual parts of each ad.

Lastly, it is difficult for publishers to effectively analyze articles based on FTC guidelines because many of these elements that contribute to the guidelines are subjective. For example, the rules "a saturated background shading" and "text that does not strongly contrast with the back-ground" in the "Disclosure Prominence" category are not distinctly defined. With more time, additional coders could have been used to score the native ads.

VI. Conclusion

This analysis of *The New York Times*' use of sponsored content in its branded articles shows the complexities of defining a truly informative native advertisement. The findings show that the selection of *New York Times* native ads comply with the FTC's guidelines for Proper Disclosures by 73.6% and Distinguishability by 88.9%. Prominence and Wording under the Disclosure category, and Subject under the Distinguishability category have proved to comply less than other components did. Although these individual components scored lower than the other components analyzed, it is enough if readers are able to distinguish advertising from non-sponsored content as they look at an advertisement as a whole.

The grey areas in government-issued guidelines will continuously blur as the use of na-tive advertising advances. What does the future look like in a world of progressing native adver-tisements? News sites like *The New York Times* will have no choice but to be alert to FTC guide-lines and highly strategic in their production of branded content.

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Appendix: Content Analysis Coding Sheet

1. ***Disclosures:* Placement, Prominence, Clarity, Wording**

Placement: (Max 1)
Is the disclosure placed/ does the disclosure contain…
On or near the focal point,
In front of or above the headline,
Individually labeled paid content (if ad mixed into native content),
Far above or to the right of the headline- 1
Not near the headline 0

Amount of Disclosures (Max 2)
Is there a disclosure on both the top and bottom of article?
Yes 2
Only one 1
No disclosures 0

Prominence: (Max 3)
Does the disclosure contain…
Text strongly contrasts with the background (lighter font color, dark background) 1
Text that does not strongly contrast with the background 0
A border that sets native ad from surrounding content 1
A border that does not set native ad from surrounding content 0
A saturated background shading 1
An unsaturated background shading 0

Clarity of Meaning: (Max 1)
Does the disclosure use…
Technical or industry jargon 0
Terms that customarily have different meanings to consumers in other situations 0
Unfamiliar icons or abbreviations 0
Company logos or brand names unaccompanied by a clear text disclosure 0
Company logo or brand names accompanied by a clear text disclosure 1

Wording: (Max 1)
Does the disclosure use the words…
"Ad," "Advertisement," "Paid Advertisement," "Sponsored Advertising Content," 1
OR
Any other word or combination of words other than "Ad" "Advertisement," "Paid Advertisement," "Sponsored Advertising Content,", such as "Promoted", "Promoted Stories," "Presented by [X]," "Brought to You by," "Promoted by," or "Sponsored by" 0

Category Max (Per Article): 8
Max Score for All Articles: 288

2. Distinguishability: **Is the native ad distinguishable from the non-ad content? How similar is it in style and subject matter to the site it appears?**

Format: (Max 5)
- Font
  - similar 0
  - different 1
- Colors
  - similar 0
  - different 1
- Spacing
  - similar 0
  - different 1
- Image style
  - similar 0
  - different 1
- Interactivity
  A traditional NYT article does not contain interactive elements
  - not interactive 0
  - interactive 1

Subject: (Max 1)
**New York Times* writes about the following broad subjects: News, Opinion, Arts, Living
similar 0
different 1

Content placement: (Max 1)
Is sponsor or product/service mentioned within the article or as an ad placed around the article?
Separate from the article or *is* the article itself 1
Placed within the native content 0

Category Max (Per Article): 7
Max Score for All Articles: 252

Max Total Score (Per Article): 15
Max Total Score for All Articles: 540