

Facebook's Sponsored Stories May Become Tales of Woe

By [In The News](#) of [Davis & Gilbert](#) on August 4th, 2011

In one of Facebook's latest efforts to monetize the participation of its over 500 million members, the company announced in early 2011 that it will offer advertisers a new opportunity: "Sponsored Stories."

Sponsored Stories will republish a content user's post about an advertiser's brand as part of banner ads. Advertisers can opt to have several types of user-posted content appear as Sponsored Stories, such as page "likes," check-ins, application engagement, and page posts.

The use of "branded content" or integrating a consumer's message such as a tweet or Facebook post into a banner or other digital ad is becoming a more consistent part of the daily social media interactions consumers have with each other.

Facebook is banking on Sponsored Stories, a form of branded content, becoming a big hit with advertisers and a win for Facebook. Brands can greatly benefit from the personal endorsements of social media users to all of their "friends," and Facebook can continue to monetize the millions of social media messages being disseminated by consumers on its network every second.

Buyer Beware

The key issue that advertisers need to understand with branded content campaigns, such as Sponsored Stories, is that by adopting the consumer's message, the message potentially becomes the advertiser's message and triggers many of the same legal and regulatory concerns an advertiser would have when developing traditional advertising, such as a 30-second commercial.

For example, a Sponsored Story may use content created by a consumer and the consumer's name, triggering potential copyright, trademark, and right of publicity concerns. Also, if the consumer makes statements about an advertiser's products, an advertiser would need to ensure the statements are accurate and substantiated, as it could face competitor challenges or regulatory review from the FTC.

Advertisers will also need to ensure that a consumer's privacy is protected when using such consumer's information and should not rely on Facebook, which has had its own share of privacy concerns raised by consumers and consumer groups in the past.

Any one of these issues can also potentially trigger a public relations nightmare.

Advertisers: Consider implementing some preventative measures. In order to maximize the benefits of a program like Sponsored Stories, which can positively reinforce an advertiser's message, and minimize the risks, advertisers should consider the following:

- *For risk-averse brands, limit Sponsored Stories about the company's brand to "likes" rather than allowing publication of users' full status updates.
- *Assign an employee to review Sponsored Stories consistently and flag for removal from Facebook any that contain unsubstantiated product claims, false competitor claims and third-party rights-protected content.
- *Communicate with Facebook to ensure flagged content is removed and is not subsequently re-posted.
- *Ensure privacy practices are implemented to protect your consumers.
- *Consult with legal counsel to review the relevant terms of use and evaluate the potential risks of engaging in Sponsored Stories or another social media campaign.