Proskauer

NAD Not Influenced by Verification Platform's Claims

Proskauer on Advertising Law on **June 19, 2019**

In a recent decision, the advertising industry self-regulatory body NAD recommended that influencer marketing firm Ahalogy tone down some of its claims about the capabilities of its new product, the Tri-Verified influencer marketing platform.

The decision comes at a time when influencer marketing is becoming an increasingly popular— and challenging—field. Influencer marketing is what the NAD describes as "a form of marketing where a seller leverages the popularity and credibility of specific individuals to market a product in a testimonial manner." For example, a Snapchat "celebrity" might get paid to endorse a product in hopes that some of his or her followers might be "influenced" to buy such product. However, advertisers often have difficulty measuring influencers' effectiveness in engaging audiences. Companies have developed ways to inflate subscriber numbers, distorting the accuracy of the data advertisers rely on to determine how many people view the posts placed by the influencer on the platform ("organic posts").

Ahalogy purchases sponsored posts on social media platforms and uses these "promoted posts" to display influencer-created content. Through its Tri-Verified platform, Ahalogy is then able to track and measure the impact of these promoted posts. Ahalogy claimed that its new platform was the "first-ever solution for verifying that influencer marketing impressions, traffic and other key engagement measures are valid." Ahalogy also said it was the first company to verify such data by using third-party software, "making Ahalogy the first influence platform that is 100% verified."

Competitor Collective Bias, Inc. challenged these claims at NAD, arguing, among other things, that Ahalogy's statements misleadingly implied that the platform could verify all social media engagements. In fact, the platform could only verify the influence of promoted posts, not organic posts.

Though NAD found Ahalogy did reasonably support certain claims about its ability to detect fraud , it recommended that Ahalogy discontinue its “100% verified” claim, given that it could not verify data with respect to organic posts. The NAD also suggested Ahalogy remove references to the platform being the first and only platform using third party verification, since there was no evidence to support this claim.

Ahalogy’s products seek to address the new challenges that social media presents to advertisers. However, NAD’s decision shows that in doing so, companies like Ahalogy must themselves ensure that they can adequately support the claims they make in differentiating their services from other companies seeking to help marketers address these challenges. Watch this space for developments in this fast-moving field.

View Original

Related Professionals

- **Eric R. Wertheim**
  Associate