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Marketing

Brands Cash in on Shoppers' Social Media Posts



By Alexis Kramer

July 6 — Advertising used to be about catchy slogans, melodious jingles and compelling television commercials. But in the internet age, retailers and advertising agencies are seizing on social media content—written by consumers themselves—to generate attention and sales.

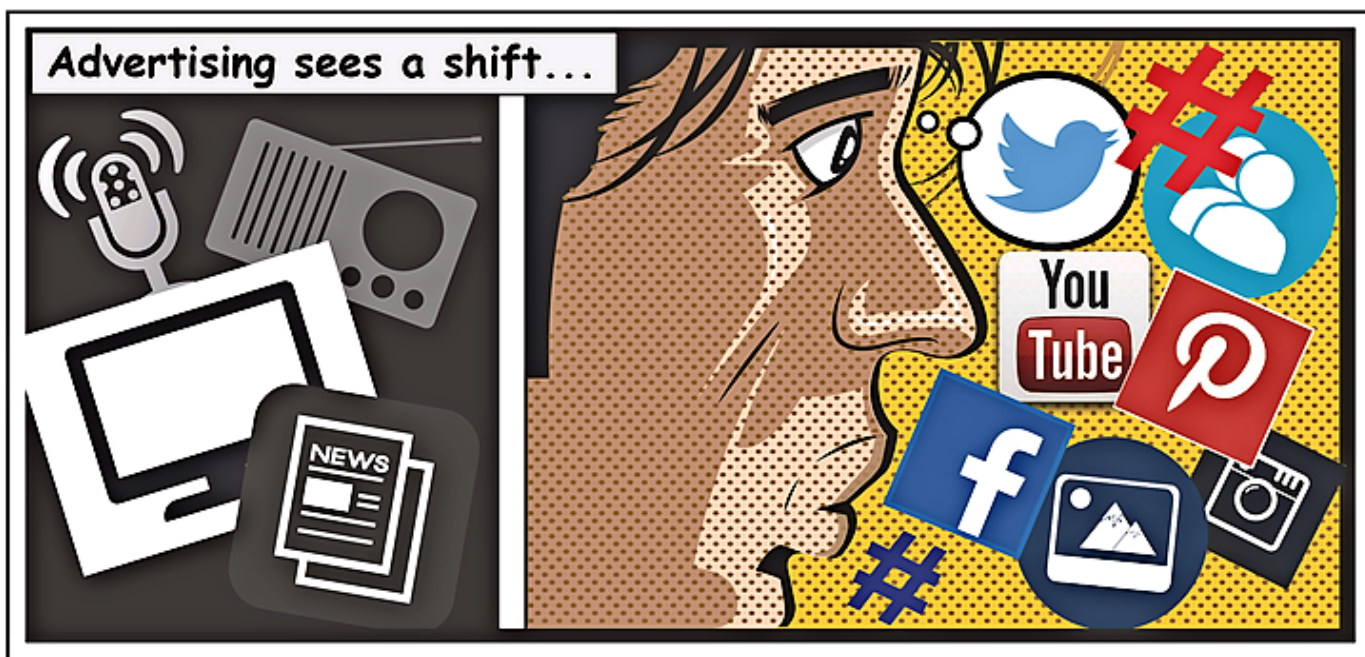
Consumers, especially coveted millennials, are spending more and more of their time on mobile devices and social media sites such as Instagram, Snapchat and Twitter. And they're using some of that time on marketing. From posting new outfits on Instagram, to tweeting about the latest video games, to reviewing restaurants on Yelp, consumers are creating valuable content that's ripe for harvesting.

Companies are aggressively seizing content, budgeting for its use and making it a major part of their marketing campaigns. They are grabbing existing posts and tweets from social media users—with permission or compensation—and recruiting users to create promotional content for their brands. Over half of U.S. companies—52 percent—have a stand-alone budget for sponsored social media content to promote brands, according to a 2015 annual report by IZEA Inc., which matches brands with bloggers and other social media users who get paid for writing promotional content.

Social media posts, status updates, tweets, videos and online reviews are showing up on the websites and in the marketing channels of big retailers, including Target Corp., Coca Cola Co. and Red Bull GmbH, who are increasingly relying on those who buy their products and services to further boost their brands' popularity. Marketing agencies, likewise, are following the trend, developing techniques to help brands find and promote the right kind of user-generated content. And advertising agencies are basing their services around aggregating social media posts and matching brands with people who are paid to post for them.

BNA Snapshot

- Companies such as Target Corp. and Kmart Corp. rely on user-generated content to promote brands.
- Marketers must ensure they properly obtain user consent and disclose affiliations.



A BNA Graphic/sees01g1

"There has been a huge surge in the past 12 to 18 months" in the use of user-generated content in marketing, Ted Murphy, IZEA's founder and chief executive officer, said. "You're seeing it more than you've ever seen it before."

Use of this content, however, doesn't come without risks, marketing and social media attorneys told Bloomberg BNA. There are several gray areas in the law regarding what constitutes user consent and when endorsement disclosures are necessary, they said.

"Brands are definitely going to be jumping on these models" as they recognize that consumers relate better to social media content from their peers than to traditional advertising, Marc Roth, a partner at Manatt Phelps & Phillips LLP in New York, said. But they need to do their due diligence, he said.

Keeping Content Fresh

As more consumers decide what to buy based on what they see on social media, companies are turning away from traditional advertising, Andrew Lustigman, a partner at Olshan Frome Wolosky LLP in New York, said.

Consumers aged 18 to 36 trust user-generated content 50 percent more than they do traditional media such as television ads, according to a study by marketing company Crowdtap. The study found that user-generated content is 20 percent more influential than other types of media in consumers' purchasing decisions.

Companies are relying on that trust to drive their marketing. They are incorporating user-generated content by searching and tracking hashtags on sites such as Twitter and Facebook and paying "social media influencers"—paid posters who influence the buying decisions of other social media users. Businesses are seeking endorsements from celebrities with strong social media followings who reach a wider audience as well as from ordinary consumers whose posts may come across as more relatable to average internet users.

"User-generated content allows us to scale content and gives our guests a platform to tell their stories," said Jenna Reck, a spokeswoman for Target Corp., which hosts a "looks" section on its website encouraging users to tag themselves with Target products and the #TargetStyle hashtag.

Reck told Bloomberg BNA that the company has seen success using user-generated content on Target.com and its social media channels. "It generally results in high engagement, which is an indicator that it's making a strong impact with our guests," she said.

Kmart Corp. displays a hashtag—#LifeIsRidiculouslyAwesome—on store mirrors to encourage shoppers to post pictures of the styles they are trying on. The company repurposes that user-generated content across its social media channels to encourage others to join in, Kmart's Chief Marketing Officer Kelly Cook told Bloomberg BNA.

"We have found that our shoppers love to brag about the surprising deals, great products, services and programs Kmart offers and they truly enjoy interacting with our brand," she said.

IZEA's Murphy said brands recognize that traditional advertising, such as online display ads, doesn't provide the type of consumer engagement they can have via social media. Also, producing interesting advertising on an ongoing basis can be difficult, especially when compared to the cost-efficient way of generating fresh content by repurposing what's been posted on social media by users from a variety of backgrounds.

"Nowadays, it is difficult to keep people engaged without fresh and relevant, user-generated content," Keyvan Hajiani, head of marketing and co-founder of marketing agency SocioFabrica, said.

Techniques

Marketing agencies, meanwhile, are focusing on creating new platforms that allow brands and social media users to work in concert.

SocioFabrica's visual marketing platform, Nicho, enables brands to aggregate user-generated content from multiple social media channels onto any website, mobile application or in-store display with one line of code. It also allows businesses to link social content directly to product pages via a "buy now" button.

Crowdtap allows brands to build networks of influencers and manage a library of user-generated content for marketing. Grapevine Logic, a marketing platform, allows companies to work directly with YouTube content creators to promote their brands in exchange for a fee.

"Smart marketers are realizing that, for their campaigns to be memorable and relevant, they have to embrace cost-effective tools that automate the discovery and distribution of user-generated content," said Hajiani. Both he and Murphy said marketers are driven to meet consumer demand for experiences that seem authentic.

Consumer content "speaks to people in an authentic, spontaneous voice that is difficult for a brand to replicate," Murphy said.

Disclosure Required?

The new techniques to aggregate and reuse user-generated content aren't free of legal risks. Marketers developing these techniques—and brands using them—need to ensure that the tools comply with the Federal Trade Commission's rules on endorsements, as well as with state publicity laws.

The FTC's endorsement guides say endorsements must reflect endorsers' honest opinions. The guides also require clear and conspicuous disclosure of any material connection between an advertiser and an endorser when such a relationship isn't apparent from the endorsement's context.

According to FTC guidance, social media users who are part of a paid campaign to promote a product likely need to disclose that fact when pinning a photo, sharing a link or even clicking a "like" button.

Lustigman said any type of compensation for a post should be disclosed near the social media endorsement. Disclosure may also be required if a brand has repurposed a post without compensating the creator, but circumstances vary, he said.

Using user-generated content without compensation creates a “big gray area” with regard to the FTC's disclosure requirements, Matt Britton, chief executive officer and founder of global digital marketing agency MRY in New York, said.

Regulatory requirements depend on how the brand is using the content, Britton said. If a company is simply retweeting a post that promotes its brand, it likely doesn't need to add a disclosure, he said. However, if a company repurposes an existing tweet, it might need to disclose that the repurposed tweet is an ad—even though the original wasn't intended as one.

IZEA's website states that its goal is to adhere to the FTC's endorsement guides, and that it has an “ethical obligation to educate and protect the brands, partners and creators we work with.”

IZEA's terms of service require disclosure of material connections between marketers and content creators. It has also developed disclosure automation technology that enables users to choose a disclosure from one of two styles and insert them into status updates, blog posts, photos and videos, according to its site.

Consent to Reuse

Using user-generated content without permission could also run afoul of state right of publicity laws. Those laws prohibit the use of a person's name, image or likeness for commercial gain without his or her consent. That's where it gets complicated.

Companies can search for content on Twitter and other social media sites by tracking hashtags that include their brand's name or trademarks. But while consumers may expect that their posts can be tracked with hashtags—or that they are joining a conversation about a particular topic, brand or product—that doesn't mean they've given express permission to use their posts for a commercial purpose, Roth said. The question is whether consumers can reasonably expect brands to pick up their part of the conversation for the purpose of marketing.

Nicho enables companies to search and collect social media posts by hashtag or account handle, but it has a built-in rights management mechanism for requesting permission before employing any user-generated content in a marketing campaign, Hajiani said. According to the site, brands can secure permissions with “personalized approval hashtags.”

Hajiani also said the company works with an attorney specializing in tech contracts and software licensing to make sure that brands credit content creators.

Kmart's Cook said the company has a disclaimer on its website about repurposing user-generated content and seeks explicit consent from consumers to reuse Instagram and Twitter images. Kmart's terms of use state that, by replying with #KmartYes, users are giving Kmart the right to reuse their photos.

For companies and advertisers that successfully navigate the regulatory minefield, the reward is an effective and relatively low-cost way to attract business. As long as brands and marketing agencies ensure compliance with the FTC and other laws, the use of user-generated content will continue to be a successful strategy, Murphy said.

“Brands and agencies are leveraging this perpetual flow of content in their own marketing efforts and becoming champions of the consumers that promote their products,” he said.

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