

TOWARDS A BILL OF RIGHTS FOR ONLINE ADVERTISERS

Online advertising presents remarkable efficiencies — better targeting, improved measurement and greater return on investment. Yet there are challenges, particularly when networks of intermediaries place ads through convoluted relationships, and all the more so when small advertisers cannot effectively negotiate terms dictated by advertising powerhouses. The result is a troubling mess of ads gone wrong — advertisers charged in ways they didn't fairly agree to, and on terms they didn't meaningfully accept.

But online advertising doesn't have to be a wild west. I propose five specific rights advertisers should demand as they buy online placements:

- 1. An advertiser's right to know where its ads are shown.** It is nonsense to pay for ad space without knowing where the ad will appear; sites vary too much in user quality and context. Even for "blind buys," advertisers need enough information to determine whether a given site qualifies to show an ad. Anything less undermines accountability — inviting fraudulent sites to devour advertisers' budgets. And with all manner of fraud — from spyware pop-ups to invisible banners to adult sites slipping into "brand-friendly" networks — advertisers need to be wary.
- 2. An advertiser's right to meaningful, itemized billing.** Clear records are crucial to protect advertisers from accounting games. Otherwise, ad networks can claim "We already credited you for those clicks," knowing that advertisers cannot prove otherwise.
- 3. An advertiser's right to use its data as it sees fit.** Campaign configuration details (such as keywords and targeting) are an advertiser's own creation, to be retrieved whenever and however the advertiser chooses. Same for records of campaign performance. Yet some ad networks impede data portability in an attempt to increase their share of advertisers' spending.
- 4. An advertiser's right to enjoy the fruits of its advertising campaigns.** When a user clicks an ad, the advertiser pays fair value to reach that user. But in a world of behavioral targeting, it's all too easy for a network to resell that same user to the advertiser's direct competitor. Click one airline's ad and a network may conclude you're in the market for travel — then show ads for other carriers. That's a poor value for the advertiser whose spending sparked the targeting.
- 5. An advertiser's right to resolve disputes fairly and transparently.** Ad networks generally write the contracts that govern their dealings with advertisers, and they use this drafting power to tilt contracts in their favor — disclaiming promises that ads will appear anywhere in particular, and denying responsibility for fraud, even when they know about it and fail to take action. At face value, these contracts purport to grant networks effective immunity from advertisers' complaints. But advertisers don't accept such one-sided provisions in other procurement contexts, and they need not be so lenient here.

In this time of plummeting ad prices, networks are increasingly anxious to attract advertisers. With increased negotiating power, advertisers can and should demand more.

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