Branded Content: practices and governance

Abstract

The chapter examines the forms, evolution and implications of branded content practices, ranging from brands' own media to sponsored content and programmatic native advertising. The ways in which marketers are adopting branded content is explored in the context of the ongoing convergence of paid, owned, earned and shared media. How branded content is developing in different national and regional contexts is influenced by formal regulations and by the cultures and practices of media and marketing practitioners and users alike. Following a mapping and analysis of practices, the chapter discusses how analysis of branded content governance can advance media and marketing industries research. Such governance arrangements range across formal laws and rules to various kinds of self-regulation, 'norm entrepreneurship', and more 'liquid' organisational arrangements, identities and practices.

Introduction

Brands are increasingly involved in the production of media content. This branded content takes various forms, from material that is self-published by brands, through to 'publisher hosted' material that is carried by third-party media. Some of this is so-called native advertising, advertising that blends into the editorial or content environment in which it appears, merging brand messages with entertainment or informational content. Taken together, such non-traditional, native advertising grew at twice the rate of traditional advertising worldwide in 2017, surpassing $100 billion (PQ Media, 2018). Spending on non-traditional, native advertising has been rising in recent years and is expected to occupy an important position in advertising strategy and expenditure in the future*.

The forms branded content takes are constantly, and rapidly, evolving, extending from text-based to visual and auditory content, live events, Virtual Reality (VR) and Augmented Reality (AR). This chapter examines the forms, evolution and implications of branded content practices, ranging from brands' own media to sponsored content and programmatic native advertising. The ways in which marketers are adopting branded content is explored in the context of the ongoing convergence of paid, owned, earned, and shared media. How branded content is developing is also influenced by formal regulations and by the cultures, practices and discourses of media and marketing practitioners, consumers and stakeholders in different contexts. This chapter reflects on branded content practices as an object of study and discusses how analysis of branded content governance can advance research into media and marketing convergence.

Branded content: definitions and development

It is important to differentiate types of branded content as these give rise to different sets of problems. Branded content covers three main areas of activity. First is brand's own content, "owned" media, appearing on marketers' own websites, Instagram, Facebook pages, YouTube channels, etc. Next is the 'native' distribution of marketers' paid content: ads integrated into webpages, apps and news feeds in social media. Much of this is programmatic, part of the increasing automation of advertising buying, selling and placement. One way we encounter this is the sponsored stories on publishers' websites, assembled by content recommendation companies like Outbrain and Taboola. Third is editorial-like content, hosted by or made by publishers, which may be controlled by publishers, advertisers, or jointly. This includes advertorials or sponsored editorial content in news media and magazines, advertising funded programming on broadcast or non-linear TV, and sponsored posts influencers, on YouTube, TikTok, Facebook, Instagram, Snapchat and other social media platforms.

The term 'native advertising' is used to cover both the second and third types of branded content and has been defined as 'paid advertising where the ad matches the form, feel and function of the content of the media on which it appears' (Native Advertising Institute, 2015). The aim is to get users to engage with advertiser-sponsored content as readily as they would editorial content. While type one is brands' own media, type two and three are principally forms of paid advertising. However, while native is increasingly used to describe digital advertising formats where the marketer exercises control over the communications, in type three, marketers may pay for content without exercising full editorial control. This is then closer to practices, and regulatory definitions, of sponsorship than advertising. For both type two and three, it is the blurring of 'advertising' with editorial, and the confusion about where control over content lies, that has generated much of the controversy surrounding branded content.

Branded content is old, not new (Hardy, 2018), but it has intensified in the digital era, for a variety of reasons. For publishers and platforms, branded content has been a way to enhance and distinguish their offer to advertisers in highly competitive internet ad markets, to finance their media services and monetise users. For advertisers and agencies branded content has been shown to offer 'more bang for your buck', with native more effective and persuasive than traditional ad formats, and more capable of evading ad-blocking of various kinds, even if problems including measurement and return-on-investment (ROI) remain (Fulgoni et al., 2017). Branded content has developed in response to an actual, and perceived, crisis of effectiveness in advertising, as established forms fail to hold people's attention, with skipping, blocking, banner-blindness, cynicism and resistance to persuasion, and the relocation of audiences to communication spaces where ad-formats are eschewed in various ways (Sullivan, 2013; Donaton, 2004). 'Branded content has emerged as an effective means for marketers to reach audiences not only at scale but also while they are in an engaged state of mind and more receptive to brand messages' (Fulgoni et al., 2017, p. 363). So, branded content has developed, in part, in response to changes in user behaviour, attitudes and media consumption affecting advertising effectiveness. There are also technological factors: it is increasingly easy and inexpensive to format ads to match the surrounding content and manage processes through programmatic advertising, real-time billing and automated market transactions, aiding both in-house marketing teams and agencies. A final key factor has been shifts in governance, occurring across formal regulation and professional norms. The expansion of branded content, then, is multifactorial, within and across diverse communication sectors, and these factors mutually interact in dynamic ways to influence specific practices.

Underlying the growth of branded content are the opportunities and challenges arising from transformations in digital communications. The shift towards online viewing from the 2000s has reduced opportunities for interruptive ads in programme breaks. Consumers increasingly expect to view over-the-Top (OTT) video without adverts, so this shift to streaming services has been accompanied by a further rise in product placement: research shows that 100% of Amazon's original programming contains brand integrations, 91% of Hulu originals, and 74% of Netflix originals (Tran, 2018).

In publishing, the decline in print readership, especially among the young, has reduced the value and effectiveness of display advertising. Commercial news brands have turned to branded content to try to offset steeply declining advertising revenues, in market conditions where many also face eroding sales and subscription income. Online advertising revenue is increasing but the share for news media remains low. The powerful duopoly of Facebook and Google accounted for an estimated 56.4 per cent of the global online ad market in 2018, predicted to grow to 61.4 per cent in 2019 (Warc, 2019). Brand sponsored content (44%) is now the second most important revenue generation, after advertising (70%) and ahead of subscription, according to a worldwide news media survey (ICFJ, 2017).

Sponsored editorial content is material with similar qualities and format to content that is typically published on a platform, but which is paid for by a third party. Advertising that resembles editorial long predates the digital age, but brands are increasingly involved in the production of publisher-hosted content, including material described as paid content, sponsored content, native advertising, and content recommendation. This ranges from content funded by brands but editorially controlled by publications, to 'paid content' that is entirely controlled by brands. Lying in between is a blending of brand and editorial voice, with gradations of brand control, ranging from content lauded in the industry, such as T-Brand Studio's reporting on women prisoners in a *New York Times* paid promotion for Netflix's *Oranges in the New Black*, to widely criticised examples such as *The Atlantic*'s cover story paid for by the Church of Scientology (Carlson, 2015; Einstein, 2016). Publishers, from digital natives such as Buzzfeed, to major legacy brands have created teams to produce sponsored content for brands, with many commentators highlighting the hybrid nature of the journalist-client collaboration as distinct from the older 'advertorial' model of advertiser supplied content (Lynch, 2018, p. 11-12).

Native advertising is 'content paid for and controlled by brands, but which looks like news, features, reviews, entertainment and other content that surrounds it online' (Advertising Standards Authority, 2016). Beyond publishing, native advertising is now integral to the business models of the major social media platforms and expected to make up 96 per cent of total social display ad spending in the US in 2019 (Benes, 2019). Social media allows brands to have direct communication with consumers, often at a fraction of the costs associated with TV campaigns, and in formats that are much more immediate to produce, test, change and publish to encourage engagement and sharing. This is advertising that allows interaction with users in real time. Native ad formats can also evade the increasingly mainstream use of Adblocking software used to block banner ads, pre-roll video and other formats.

Branded Content: extensions and emergent forms

An influential, if ahistorical, model of marketing convergence is PESO, displayed as four overlapping circles, showing the separation, and integration, of paid (advertising), earned (public relations), shared (social media) and owned media (Dietrich, 2014). Branded content occurs in each PESO circle as well as in converged, hybrid forms where they overlap, and occurs too within different gradations of brand control over content, form, dissemination and context of display. Owned media usually provides 'full' control by brands, although this is more accurately subdivided into 'owned' and 'managed' to recognise how brand control is variously ceded to host platforms. Paid media is likewise controlled by brands, but on a spectrum towards sponsored content where some control may be ceded to publishers. Earned and shared are associated with communicative actions taken by publishers and other media service providers, or users, over which brands cannot exercise full control, although inducements and deals can make the earned-paid distinction blurred, and disguised in both cases. These differences are reflected in debates, between a managerial definition of branded content which focuses on brand control of intellectual property (IP), and a holistic definition that focused on any communication about brands including those circulating in ways uncontrolled, and uninvited, by brands (Asmussen et al., 2016, p.34)[2].

[2] 'From a managerial perspective, branded content is any output fully/partly funded or at least endorsed by the legal owner of the brand which promotes the owner's brand values, and makes audiences choose to engage with the brand based on a pull logic due to its entertainment, information and/or education value' (Asmussen et al., 2016, p. 34)

Branded content, then, occurs in hybrid forms across both traditional and innovative media vehicles. Red Bull has long been a pioneer of the brand-as-media model, with Media House producing TV shows, including Felix Baumgartner's Stratos jump, for its Red Bull TV channel, and licenced to the Discovery channel, Netflix and others, and with Red Bull Music supporting independent, alternative artists (Swatman, 2015; Einstein, 2016; Hardy, 2018). Red Bull creates, packages and distributes content across its categories of sports, culture, gaming and adventure and has expanded collaborative branded content, such as its tie in with the Dubai Tourist board, creating a film in which BMX rider Kriss Kyle drops from a helicopter to perform stunts at famous locations around the capital, securing over 240,000 YouTube views and 1521 pieces of earned media publishing (Red Bull, 2019). However, branded content is also developing rapidly across spaces beyond media vehicles, some novel and some with longstanding roots in promotional practices. Branded content has been incorporated into novels, such as Fay Weldon's *The Bulgari Connection* (2001), and physical books, such as Chanel's embossed, non-ink book (Stinson, 2013). One such deep-rooted form is brand sponsorship of live events and activities, either business-to-business (B2B), such as conferences and trade exhibitions, or consumer-facing, consumer experience (CX) activities notably in sports, entertainment, leisure and consumer goods.

Another developing area is outdoor advertising. This can be traced back to the earliest forms of advertising, symbols carved into traders' premises, on to the proliferation of outdoor posters in 19th century cities. Many brands have experimented with outdoor and ambient promotion, much fulfilling a familiar public relations strategy of a notable, place-based 'pseudo-event' (Boorstin, 1962) that is then circulated widely via earned media coverage, and shared social media posts. Examples include the Fearless Girl statue originally placed facing down the bronze bull in Wall Street, commissioned by asset management company State Street Global Advisors (SSGA) to promote the launch of its Gender Diversity Index of companies, for International Women's Day in 2017.

In August 2019, Apple released augmented reality walking tours in New York and five other cities, featuring commissioned work by artists delivered via iPhones (Haigney, 2019). Branded content now occurs across spaces and digital screens, including in retail spaces where they form part of the fashion-media nexus, enabling customers to try, style and share clothing ideas, and bringing search, purchase, communication and consumer experiences together. Here too AR offers a fusion of brand communications and personalised, or pseudo-personalised, shopping experience. Brands have experimented with VR content too, but the requirements for headsets and safe environments have restricted usage. Brands use screens where the ad-like status is indistinct, for instance, when a brand sponsors a digital screen weather service. Outdoor digital advertising is on the cusp of realising the kinds of customisation fictionalised in Spielberg's *Minority Report*. Other major developments include audio branding and its role for brands in the developing sphere of AI-enabled voice assistants such as Siri and Alexa (see chapter 5, this book).

This author's work on branded content has focused on the changing relationship between media and marketing communications (Hardy, 2017, 2018). However, taking such a mediacentric view risks missing other sets of relationships and explanations. For many marketers, 'content' is thought about much more in terms of customer relations management (CRM), and hence communications across the entire customer journey from awareness, to interest, desire and action (AIDA). That CRM work has been transformed by digitalisation and datafication but it also engages a wider set of institutionalised relationships across 'marketing' and 'sales' in the processes of identifying and satisfying customers needs, from initial brand awareness to after-sales loyalty. That wider framing also helps highlight how the focus of much media-based branded content is on the earlier stages of awareness and interest building, including establishing brand associations for younger audiences that will only generate returns on investment over the longer term when those consumers choose car brands or other expensive purchases. Often the most celebrated branded content, by industry and consumers alike, focuses on storytelling over more overt persuasion, credible fit and permission (Tur-Viñes and Segarra-Saavedra, 2014), such as Patagonia's 90mins documentary *Artifishal* (2019) on salmon farming.

The attractions of branded content for marketers include providing relevant, valued messages, increasing consumer engagement, building awareness and generating buzz. For the US Association of National Advertisers (ANA, 2015), 'The main benefit of native adverting is the ability to create extremely relevant associations between the brand and consumer via content. Given today's media landscape, where consumers can avoid ads more than ever, advertisers are looking for new ways to get their messages noticed and acted upon'.

For many industry analysts the rise of branded content is a response to a shift of power from advertisers to consumers (Donaton, 2004). The power dynamics shaping contemporary marketing communications are undoubtedly complex, and volatile, with some considering advertising as a whole in crisis (Auletta, 2019). When the publishing platform Medium gave up native advertising in 2017, its founder declared 'the broken system is ad-driven media on the internet' (Williams, cited in Lynch, 2018, p.115). Yet for some critical scholars, attention to the shifts of power between marketers and consumers that result in ever-increasing challenges for marketing effectiveness, tends to displace acknowledgement of the shifts of power between marketers and media (Turow, 2011; Einstein, 2016). The characteristic relationship of media and advertising in the mid-20th century was *integration with separation*: advertising was physically integrated with the media product, but separated from editorial content (Hardy, 2013). That separation principle was generally upheld by news journalists, supported by managers, underpinned by self-regulatory codes across media and advertising, and subject to stronger statutory regulation in sectors like European broadcasting.

Media and advertising integration is not new but the digital environment has brought increased pressures from marketers, met with increased accommodation by advertising-dependent media (Turow, 2011; McChesney, 2013, p.155). The emergent forms are *integration without separation*, which extends from branded entertainment and product placement to advergames and sponsored social media, but this coexists with trends towards *disaggregation* of media and advertising. Marketers are less dependent on the intermediary role of media, can track and target consumers directly and demand to reduce their subsidy to premium media by paying only the costs of delivering an advert onto a selected platform. Both trends, integration and disaggregation, reflect a strengthening of marketer power in an era of increased media dependence on advertising finance.

Branded Content: Implications for Public Media

The integration of marketing communications into media is regarded as desirable for marketing effectiveness in affirmative academic scholarship, as necessary for commercial media survival in liberal scholarship, but is challenged in critical scholarship, where three main problems can be identified. The first is consumer welfare – ensuring that consumers are aware of marketing communications. The US Federal Trade Commission (2015, p.1) describes native advertising as 'advertising and promotional messages integrated into and presented as non-commercial content'. For the Interactive Advertising Bureau (2013, p.3) native advertising attempts to 'deliver paid ads that are so cohesive with page content, assimilated into the design, and consistent with the platform that the viewer simply feels that they belong'. More critically, this is described by another advertising executive, Simon Fraser (n.d.), Creative Director at OgilvyOne Business, as 'ads donning editorial clothing in an attempt to make you believe that what you're reading is objective'. This mean that content that is controlled or influenced by brands can be carried without the reader being aware (Amazeen & Wojdynski, 2019; Wojdynski & Evans, 2016) . A key principle of advertising regulation is transparency: '[m]arketing communications must be obviously identifiable as such' (Committee on Advertising Practice 2010; rule 2.1). At issue is the degree to which branded content is labelled and identified so that consumers can assess the interests behind the communication.

Consumer awareness is vital, but the focus on this, tends to displace two other concerns that are more antithetical to brand integration in media. The second problem is the effect of native advertising on the quality and integrity of channels of communication. The creation of content on behalf of marketers that looks very similar to editorial content has the potential to undermine the editorial integrity of the publication, critics argue (Levi, 2015). This highlights concerns to safeguard qualities of the communication channel, not just protect consumers from deception (Goodman, 2006). One version argues that native advertising is parasitic, destroying what it feeds on; advertisers wants to harness reader trust but in doing so undermine it. For legal scholar, Tamara Piety (2016, p.101), "native advertising threatens to spread advertising's low credibility to all content, thereby destroying the reason advertisers wanted to mimic editorial content in the first place". Another risk is that, as an article in Advertising Age puts it, '[w]hen you are a publisher that peddles native advertising, you're more vulnerable to advertising pressure' (Goefron, 2015).

Here, criticism focuses on the potential impact on editorial content and decision-making arising from pressure from, or dependency on, brand sponsorship (Atal, 2017; Conill, 2016)

Native advertising violates principles of editorial independence, or artistic integrity, because it creates the risk that “non-advertising” content will be shaped in accordance with advertisers’ wishes. Radical political economic critiques go further in their concern about the system-wide consequences for communication provision of privileging marketers’ voices (Hardy, 2017). So, the third major problem concerns marketers’ ‘share of voice’ within communication spaces. The extension of brand voice into non-commercial spaces increases inequality in communication power.

The use of third-party endorsement to inform and persuade, a classic definition of public relations, has been turbo-charged as the vehicle for brand communications by social media influencers. Influencers can offer the most persuasive, personable endorsement for brands and do so across the blurred lines from paid promotions and product placement, to so-called organic mentions, opinions or image endorsements that are ‘freely’ given. Just as brand spending to reach younger demographics has shifted from legacy media vehicles to social, so too the orientation of branded content practitioners. The embedding of brand talk and image with influencer communications that have qualities of trust, authenticity and independence, engages all the problems outlined above, with added features. Not only is the nature of the communication less clear, so too are the responsibilities. In professional, ‘mass communication’ environments there are expectations and cultures of compliance with relevant rules. In the pro-am world of influencers such arrangements are less assured. The relative confusion over rule-adherence, compliance and accountability is also exploited for strategic purposes in an emergent sector that ranges from professional influencers supported by staff team, agents and advisers, to individual vloggers, building up the followers to attract platform and marketers’ attention.

Governance

How branded content is developing in different national and regional contexts is influenced by formal laws and regulations, and by the cultures and practices of media and marketing practitioners and users alike. This section outlines a framework for analysis of governance and proposes this as a way to advance the integrated study of media and marketing industries. Governance refers to all processes of governing and rule wherever they occur (Bevir, 2012). For Rosenau (1992, p. 4f) ‘Governance (...) is a more encompassing phenomenon than government. It embraces governmental institutions, but it also subsumes informal, non-governmental mechanisms (...). Governance is thus a system of rule that is as dependent on intersubjective meanings as on formally sanctioned constitutions and charters’. One attraction of governance as a concept is that it encompasses the range of informal as well as formal processes by which practices are ordered and regulated. Such a mix of laws, regulatory agencies, industry and professional self-regulation, evolving standards and looser ‘rulemaking’ is a general feature within contemporary, dynamic, adaptive (communication) systems.

Governance analysis examines how practices and processes shape, and are shaped by, the distribution of resources and power. A criticism made of some governance studies is that they attend to specific operations of power without an adequate account of the macro level influences of state-capital relationships. To remedy this, critical governance analysis draws on efforts to theorise and examine the interacting relations of power across macro-meso-micro levels, without reproducing a rigid deterministic account. Benson’s (1977) dialectical network analysis offers one such effort, and has influenced more contemporary analyses by Jessop (2007), Davies (2011) and others[3]. There is no space to develop that full framework here but this work demonstrates efforts to examine how practices are organized materially and discursively and trace connections between the influences of political and economic forces on those practices. This critical tradition asks how power inequalities are sustained, and contested, and what social implications arise? Applied to branded content, that includes the task of examining power shifts between marketers, marketing agencies and intermediaries, media, platforms, and consumers. It also requires analysis of the broader influence of neoliberalism on the organization and liberalizing re-regulation of communications markets and on increasing ‘hyper-commercialism’ (McChesney, 2013), marketisation, financialization, and commodification affecting communication services and

[3] ‘Analysis must deal with the complex interlocking through which components are built into each other. This involves a search for dominant forces or components without resort to a deterministic argument’ (Benson, 1977, p.5)

content (Berry, 2019). The discussion below illustrates some resources for critical governance analysis including the influence of new institutionalism, and concepts of path dependency (Mahoney, 2000), and neo-Gramscian analysis of hegemony (Davies, 2011) to study processes of normalization and contestation.

The task of mapping governance requires examining the range of actors and processes through which relations of power are produced, sustained and contested. The main sources of governance are

- Formal regulation (regulatory agencies directed by State, supranational law; co-regulation between public authorities and industries)
- Industry self-regulation (codes and standards; technology)
- Market power (including consumer action)
- Civil society action (including protest)

Formal regulation

In 2015, the US Federal Trade Commission issued new regulations and guidance on native advertising, the outcome of a review process begun in 2013 that marks the beginning of a period of increasing regulatory activity worldwide. While the regulatory tools and purposes are diverse, across consumer, communications and competition regulation, a core concern has been to prevent misleading advertising. Most countries have regulations concerning the labelling and identification of communications that are paid for or otherwise sponsored by a trader (GALA 2018).

Within the European Union there is competition, consumer, communications and data law governing branded content, much in the form of Directives incorporated into member states' domestic law. The Audio-Visual Media Services Directive 2010, revised in 2018, requires that audiovisual commercial communications are readily recognisable and extends product placement rules to video sharing platforms, especially to address Netflix, Amazon, Apple and other US based providers taking an increasing share of European audiences. Under EU law, you have the right to be informed if a newspaper article, TV programme or radio broadcast has been 'sponsored' by a company as a way to advertise its products. The

2005 Unfair Commercial Practices Directive (2005/29/EC) prohibits '[u]sing editorial content in the media to promote a product where a trader has paid for the promotion without making that clear in the content or by images or sounds clearly identifiable by the consumer (advertorial)' (Annex 1, Item 11). This is valuable, but limited and outdated. It applies when the content is obviously promotional, but is not sufficient to cover all forms of brands' involvement in editorial. Likewise, the Directive on Electronic Communication (2000/31/EC) requires clear disclosure of 'the natural or legal person on whose behalf the commercial communication is made', but that formulation is insufficient for rapidly developing editorial-advertising hybridisation and brand sponsorship.

The UK regulatory system continues to exert a strong influence on European and other systems. While its particularities will only be sketched out here, it also illustrates wider issues in governance, including problems of definition, demarcation and lack of regulatory convergence. There are a range of regulatory agencies including statutory agencies, Ofcom and the Competition and Markets Authority (CMA), self-regulatory agencies, notably the Advertising Standards Authority (ASA) , and industry professional bodies. There is a legacy of separate regulation, and demarcation, of advertising, public relations and editorial that has been ill-equipped for rapid convergence across marketing communications and publishing. Although this is changing, regulatory arrangements still lag far behind industry practices.

In accordance with the principle of transparency, the ASA warns against any labelling that disguises advertising or is otherwise unclear to consumers. However, the ASA applies a dual test of whether the brand pays and exercises control over content. If the brand pays but does not exercise editorial control there is no requirement to notify readers. This lacks sufficient transparency and provides a means whereby if publishers and advertisers have an interest *not* to disclose sponsored content, they can rest upon a claim of the publisher retaining editorial control that is difficult for regulators, much less readers, to assess. Further, the ASA rules apply to paid advertising but not public relations, and so do not cover so-called 'organic' mentions in 'earned' rather than 'paid' content. Yet that division is becoming increasingly blurred as reciprocal deals, bartering and other transactional arrangements abound across digital publishing and influencer marketing.

European Union countries are required to alert consumers to product placement, the paid presence of brands in television production. Users must be informed about brand payment through a single, standardised sign, in the UK a P-sign. Yet, no such standardisation is required for publications, platforms or other content providers carrying editorial-like content produced by, for, or in association with third-party marketers. Despite ongoing regulatory convergence, a diverse range of agencies regulate, and self-regulate, branded content, reflecting historical, institutional differences across publishing, broadcasting and audiovisual, public relations and advertising. Governance arrangements reflect the 'structuration of past conflicts and present organisational power', a phrase used by Marsh and Smith (2000, p.6) in their description of policy networks. De-converged regulation has been largely beneficial to commercial media and marketing firms, although legal-regulatory uncertainty also adds to costs. This phase may be drawing to a close, however. Heightened attention to issues of fake news and misinformation, undisclosed political advertising, online harms, digital media literacy, and communication rights, is resulting in more regulatory intervention. How far this will apply across online advertising and branded content will depend on corporate lobbying power, the mobilisation of civil society interests, and on self-regulatory responses across industry.

Industry self-regulation

Major professional associations, such as the Internet Advertising Bureau, advise their members on complying with regulations on labelling and disclosure of branded content, and advocate good practice principles. Yet, they and other bodies also lobby against stronger regulation. The IAB (2015) criticised the FTC disclosure requirements for native advertising as 'overly prescriptive' and argued' the guidelines could impinge on commercial speech protections' (Lynch 2018, p.18-20; Campbell and Grimm, 2019). Industry perspectives represent a complex and volatile mix in which there are incentives for some sectors to advance 'good practice', for instance on labelling and identification of branded content. For instance, where there are risks to reputation – as there are in digital advertising – there can be incentives for firms and sectors to differentiate themselves, as responsible actors, from the damaging practices by others. There are also interesting technological forms of self-regulation emerging. For instance, Instagram now offers brands the incentive of access to data analytics if they use its subheaders on posts to declare that they are sponsored.

Yet, there are plenty of grounds for concern. First, industry compliance with existing regulations remains low. One analyst notes that '[g]uidelines for advertorial content are being flouted to a degree at present. Were they enforced, consumer cynicism for the format may knock investment' (Hammett, 2016). Research indicates that a significant proportion of publishers do not identify branded content in accordance with the relevant regulatory standards. Of the US online publishers offering native ads, one study found 70 per cent were not compliant with the FTC's 2015 guidelines (Swant, 2016). A subsequent study found that non-compliance was reduced, although still significant, at 37 per cent of digital publishers (MediaRadar, 2017). Research by the Native Advertising Institute (Elliason 2018) found that 11 per cent of news media publishers were not labelling native ads at all. A study of 800 Instagram accounts found just over two-thirds disclosed monetary partnerships, but only 25 per cent did so in line with FTC recommendations for clear disclosure within the first three lines of a caption. We lack similar data on compliance across Europe. However, influencer marketing firm Takumi conducted UK research in 2015, finding that merely 37 per cent of marketers admitted to adhering to the Committee on Advertising Practice code, while many said they did not even know what the code was (Audunsson, 2016).

Second, labelling in many countries remains inconsistent and confusing. Content providers use a diverse set of labels. The *Guardian* (2017) newspaper's divisions between 'Advertiser content', 'Paid content' and 'Supported by' requires a sophisticated understanding of publishing processes to decode the differences. Publishers' guidance for readers is rarely read, similar to digital apps' terms and conditions. It is not surprising, therefore, that audiences are often confused and annoyed, especially when they discover only after viewing content that it was sponsored. The Reuters Institute (2015) found that a third of UK adults have felt disappointed or deceived in this way.

Market Power and Civil Society

After regulation and self-regulation, a third key source of governance is the market. Firms' behaviour is shaped by competitors, consumers, suppliers and other market actors. Markets are also sites where consumer activity has influence, from the restricted agency of individual purchasing decisions whose aggregation influences firms' behaviour to more collective responses such as boycotts. For branded content governance, ad-blocking is a powerful example, with 40% of users in the UK; an estimated 30% of users in US using app and browser ad-blocking tools (Statista, 2018)].

The final source of governance agency is civil society. This includes 'organised' civil society, such as health and children's NGOs, trades unions, and communications reform groups. It includes campaigns against advertising such as culture jamming, brandalism and subvertising: making parodies of corporate or other advertising. It extends into more 'disorganised' movements and citizen-consumer action, today aided by social media, such as the protests against the Kendall Jenner Pepsi ad in 2017, a loud refusal to give Pepsi permission to appropriate the iconography of Black Lives Matter. To date there has been little explicit, organised protesting against branded content and native advertising, yet a combination of market power (the aggregated actions of individuals) and policy advocacy by civil society groups, challenges industry practices and current governance arrangements (see chapter 10, this book). For instance, there are signs of growing consumer criticism of influencer marketing. According to commercial research by Bazaarvoice (2018) more than half surveyed audiences in Europe feel that influencer sponsored content 'takes advantage of impressionable audiences by being too materialistic (55%) and misrepresenting real life (54%)', with 49 per cent calling for stricter content rules. Such responses manifest in market power activity, but also influence regulatory agencies, political actors and policy networks.

Governance analysis: normalisation and contestation

Communications regulation is predominantly a specialised set of negotiations between industry stakeholders and core policy network actors. For other stakeholders from civil society to have influence there usually has to be a combination of powerful interest groups, beyond media policy activists, such as the lobbies on behalf of health and children. In addition, there needs to be widespread public coverage of the issues, including discussion of problems and solutions, putting pressure on politicians, regulators and industries to act. As this illustrates, governance analysis needs to encompass the many ways in which rules and norms are established, and how they are subject to discursive construction and contestation.

The attractions of governance are that it invites attention to the multiple sites of production of rule-making and their interaction with consumers and other actors.   This connects the study of regulation, which is often a specialist sub-field in communications, with analysis of production and practices across media and marketing industries. The study of governance includes examining how professional attitudes change, how norms are formed and challenged, how industry practitioners and trade bodies engage with contestation from within and outside their domains. We now have multiples studies of the ways in which journalists, managers, content studio workers and other actors have responded to increasing pressures to incorporate branded content in publishing. For instance, Carlson (2015) identifies a process of norm entrepreneurship by which the constraints of older 'firewall' norms are replaced by a 'curatorial' norm that embraces the collation of editorial and paid content for readers. Examining processes of normalisation can draw on analysis inspired by Gramsci on production of dominant ideas (hegemony), 'common sense' and the dynamics of contestation (Davies, 2011). This can also contribute to assessing a core issue: the shifting distribution of power and agency between marketers, media, intermediaries and communication users.

Of the three main academic criticisms of branded content discussed earlier, the first two are engaged in industry discourses (consumer awareness; integrity of media channels), However, the third, marketers power and share of voice, is very rarely articulated. Likewise, marketing industry actors seldom advocate curtailing branded content overall. Instead there are antimonies, expressed and resolved (table one). These antimonies reflect liquidity across practices, relations and identities. They reflect volatility and unsettledness in the way tensions over branded content are partly acknowledged and partly subsumed in efforts to resolve them, notably in claims for mutual benefits across the triadic relationship between brands, media and consumers.

Industry rhetoric of the 'savvy consumer' serves an ideological purpose of disguising the mechanisms by which persuasive power is exercised on behalf of brands in conditions that seek to disable resistance to advertising and, in some cases, the capabilities of users to detect advertising. Research by Taylor (2017), Amazeen and Muddiman (2018) and others, suggests that the 'persuasion knowledge' that helps audiences approach advertisements with greater scepticism is blocked by some native advertising so that readers' defences are lowered. The FTC's recommended disclosure phrasings seem to be only minimally effective. One study by US researchers found that less than 8 per cent were able to identify native advertising as a paid marketing message (Wojdynski & Evans 2016). Another found that 'just over one-quarter of respondents (27%) thought that the advertorial was written by a reporter or an editor' concluding that 'labeling—even using a "sponsored content" disclosure—is insufficient to disabuse a significant minority of consumers about the provenance of the advertising material' (Hoofnagle & Meleshinsky, 2015, p.13).

Governance analysis requires study of the organisation of practices and social arrangements, including power-dynamics arising from ownership, control commercial and other managerial pressures, and their working out in practices and perceptions of actors. This requires theories of the relationship, and synthesis, of structure and agency, such as Gidden's structuration theory. Giddens (1994) proposes three kinds of structure-action rules in social systems: signification, where meaning is coded in discourse; legitimation, the embedding of normative perspectives in norms and values; and, domination, the way power is exercised, particularly over resources. Structuration theory can be complemented and enhanced by theories of the maintenance of professional domains and boundaries, such as Bourdieu's field theory, and the maintenance of group identities, such as social identity theory. However, governance analysis faces a further challenge of incorporating the influence of automated processes on rule-shaping, drawing on actor-network and other theories that challenge the limitations of human-centric perspectives.

Conceptually, governance is helpful in addressing the range and interaction of formal and informal regulatory mechanisms, the proliferation and liquidity of actors, the significance of automation and AI, and modes and sites of contestation. Analysing governance offers a means to integrate political economic, policy and cultural analysis, by analysing connections across macro-meso-micro levels, including: state – capital – market relations; Industrial organisations and arrangements; regulatory institutions and processes; socio-cultural composition, practices, norms and attitudes across producers, users and other actors; communicative action and discursive interaction across all relevant stakeholders and media.

We might approach this with a holistic awareness of the influence of all these elements in the dynamic ordering of governance and power, even if we choose to focus on specific areas of interaction for more manageable research design.

Governance is analytically encompassing and can connect studies of regulation with studies of the organisation and performance of practices. It can link together production, consumption and use, technology, architecture, environments and affordances. In a groundbreaking study, Serazio (2013), drawing on Foucault and Gramsci, examines the governance of the consumer subject in relations between marketers and consumers. This forms a vital part of the broader scope of governance I have outlined, which concerns the conditions for the production and circulation of marketing communications. However, even this broader scope is certainly not offered as a sufficient or total approach for analysis. Governance analysis inevitably privileges some features over others – so the aspiration to recognise, if never deliver, a fully holistic and comprehensive account, means considering the links to other dimensions, other disciplinary and cross-disciplinary approaches that can illuminate issues and phenomena.

Conclusion

With the convergence of advertising and media, Donaton (2004, p.148) writes that 'there is a real danger that content will be developed first and foremost with an advertiser's needs in mind, and will only then seek an audience'. Donaton articulates the risk that advertisers will not honor the power shift to consumers, yet if they do that they will be punished, he says: 'Forgetting that the consumer comes first is a surefire model for disaster, one that leads to weak products that are unable to attract an audience, or earn its trust if they do attract it' (Donaton, 2004,p.148). So, Donaton's proposition is that the dominant power lies with consumers selecting valued content: the market will regulate. Donaton's confidence is misplaced and should be challenged; there has been a power shift to consumers, but it has been an incomplete one. Very powerful commercial interests across media and marketing industries want to advance the merging of media and advertising, and do not want to invite stronger regulation, or wider public scrutiny. The 'dominant forces' (Benson 1977, p.4) of branded content governance are the commercial brands, media and marketing firms, influencing industry practices and values, and exerting pressure on regulatory systems whose institutional histories include various kinds of consumer and public interest protection, but which fail to match industry convergence and have overseen the expansion of commercial integration of brands across media forms and platforms. To date, counter-hegemonic forces have been relatively weak, yet governance is dynamic, complex and contested. If Donaton's account reflects, in part, a moment of techno-utopianism, we, perhaps, are in a period of disenchantment, including amongst the young who have grown up in a digital world, that may increase pressure and support for stronger identification of commercial sources, and greater separation of advertising and media in protected communication spaces.

Branded content might be regarded as loose collection of evolving forms of advertising. There is some value in that reading, reflecting skepticism about hype and awareness of rapidly shifting trends. However, treating branded content as just tools in the marketing mix risks missing more profound shifts. There is a deeper convergence occurring between media and marketing, across corporate arrangements, practices, personnel, governing values, forms and formats. Leading brands have become content studios; media companies have established content units to serve marketer clients. The hybridisation of advertising formats (Balasubramanian, 1994) is now infused and increasingly normalised across market-driven media. If a more pronounced shift is underway towards increasing capacity for brand voice across communications, combined with an erosion of the qualities of public-serving editorial content, then, regardless of which formats predominate, a profound reconfiguration of communications space is occurring.

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Table 1
Antimonies of branded content

'New': innovations	**'Old': traditions**	**'Resolution'**
Hidden	Transparent	'Disclosure' Labelling 'Seamless fit'- integrated AND overt
Disruption	Continuity (disclosure principles; consumer awareness)	Brand/Media/Consumer advance together
Innovation and emergent formats	Consumer recognition	'Savvy consumer'
Creativity	Restriction (regulation; prominent labelling)	Trust creatives/market governance
'Consumer power'	'Push' marketing	'Pull' marketing; permission; 'Value' for all: brands/media/user
'Marketer power'	Regulation and industry self-regulation	Adaptive industry self-governance 'media literacy'