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A Study on the Regulation of Online Advertising in New Advertising Environment

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ABSTRACT

This study discussed the desirable direction for regulating online advertising in new advertising environment. Specifically, it examined the new advertising environment and the features of regulating online advertising. And as the key point of this study, reviewed the main issues related to regulating online advertising that are newly raised in the new advertising environment. Based on the discussions on such issues, desirable direction for regulating online advertising was suggested. Through this study, it is expected that discussions on the current main issues related to regulating online advertising will be actively made and policies and regulations on desirable online advertising will be established and executed.

Keywords: Advertising Regulation, Online Advertising, New Advertising Environment.

1. INTRODUCTION

Recently the advertising environment is changing faster than ever. In such a change, online advertising is changing faster than any other advertising sector. Due to the growth of online advertising, its influence is increasing ever more not only in economy but in various sectors of society. Such growing influence of online advertising increases the importance of regulations on them. In the meantime, with the appearance and growth of new form of online media, it is unrealistic to regulate online advertising from the perspective of the past. For online advertising to grow continuously in the desirable direction, there should be realistic regulations and policies that reflect the changing environment of advertising and specific discussions are required for this.

In the fast-changing advertising market, few will deny that the center of change is digital technology. In the changes such as the spread of digital media advertising and new type of advertising, convergence of commercial and noncommercial contents, and integrative operation of interactive media and offline

media, the existing markets are reorganized or new markets are created. As the structure of advertising industry is reorganized in various fields centering on media, there is an active movement of modifying laws and deregulation for the promotion of advertising market. It is because the form and role of advertising are diversifying and the patterns of customers using the advertising are changing in the environment of the convergence of broadcasting and telecommunication and multimedia (O'Guinn, Allen, Semenik, & Scheinbaum, 2014).

The internet is combining with various technologies such as mobile media like smart phone and tablet PC, TV, radio, out-of-home media, wearable media, and Internet of Things, and is expanding media territory exponentially. Even in the prospect that the overall global advertising market will be inactive, it is expected that online advertising market including mobile and the internet will continue to grow in the future. In the meantime, with the convergence of broadcasting and telecommunication and the expansion of media convergence service, movement of contents among media is accelerating based on the change of consumption pattern, diversification of platforms and devices. With the continuing growth of online advertising market, its social and cultural importance and influential power increased and the need for regulations on indiscriminate online advertising has been raised in various parts of society.

Especially with the emergence of media convergence and services in the boundary area, the distinction among media such as telecommunication, broadcasting, and visual contents became uncertain and it is unclear who is responsible for regulations. As the direct and indirect influence of advertising on consumers is big, there are side effects in the society. Policies and regulations that used to be applied separately for different individual media and contents industry are becoming ambiguous. In the new digital environment, there should be improvements in managing advertising laws and polices based on bidirectional paradigm, leaving the conventional practice of advertising centering on the 4 major media.

Like this, to respond to the fast-changing media environment, it is urgent to establish and enforce effective policy of regulating online advertising based on analyses and studies on regulations on online advertising. It is because fair and sound online advertising culture is the foundation of pursuing a long-term growth of online advertising industry and protecting both consumers and businesses.

From such a perspective, this study tries to discuss on regulating online advertising in the new advertising environment. First of all, it will examine the characteristics of regulating online advertising in the new advertising environment. Then, it will examine main issues related to regulating online advertising that are newly raised in the new advertising environment, which will be the core of this study. Based on the discussions on such issues, desirable direction for regulating online advertising in the new advertising environment will be suggested. Through this study, it is expected that active discussions on the current main issues of online advertising will be made and desirable policies and regulations on online advertising will be established and executed.

2. NEW ADVERTISING ENVIRONMENT AND REGULATIONS ON ONLINE ADVERTISING

Changes of the Characteristics of Advertising in Digital Media Environment

The changing aspect of modern advertising environment can be summarized as the qualitative and quantitative change in the contents of advertising. As broadcasting and telecommunication are combined and

contents and advertising are mixed, the form and concept of advertising changed, and as it is interconnected with the increasing activeness of consumers, there is a growing necessity of regulations and protective devices (Truong, McColl, & Kitchen, 2010; Kim, 2006; Yeom, 2004). This is why there is the need for the conversion or improvement of ways to regulate advertising due to the digital environment based on bidirectional paradigm.

First of all, in the enthronement of convergence of broadcasting and telecommunication, ways of saving and providing information changed a lot. As additional services are available such as broadcasting and the internet, it is possible to provide limitless amount of information through advertising. Consumers can ask for additional information when necessary while watching TV commercials and the requested information can be printed out or saved so they can watch them at a convenient time for them. Also, ads in the digital environment can also serve the function of sales. That is, it can be provided with various internet-based services such as 'T-Commerce', which is an e-commerce connected with broadcasting. Consumers watch a commercial and make a purchase immediately, in which case advertising becomes more directly connected with marketing.

Another feature is the combination of program contents and advertising. The advertising clutter that is recently getting worse along with the increasing exposure of ads and viewers' active avoidance of ads is becoming the major factors that decrease the effect of ad messages through the existing mass media. Along with the efforts of the advertising industry to cope with the situation, development of digital media technology due to the convergence of broadcasting and telecommunication, and appearance of various media, recently there have been various types of efforts for the combination of programs and advertisements, that is, the combination of noncommercial contents and commercial contents. In addition, indirect advertising, which inserts brand messages in contents, and virtual advertising are tried and branded contents, which are the combination of brand and contents, are gaining attention as an important factor of communication.

The third feature is the increased activeness of consumers in the exposure and acceptance of advertising. There is increasing phenomenon of consumers contacting and treating ads in interactive media environment. From the age of the traditional media environment when consumers were passively exposed to ad messages, the time has change into an era when consumers can actively choose whether to be exposed to ad messages and the scope (time) of ads (Nutty, 2002). Now is the time when consumers, who did not want the exposure of ads, are finding information easily and produce, share, and spread information for themselves. As the pattern of using ad contents, which is characterized by participation, opening, and sharing of information contents, became generalized, various institutional devices about regulation and protection of ads became necessary. To summarize, with the emergence of new media, the form and concept of ads have greatly changed, and there needs to be a big-scale correction of the perspective on regulating ads in the previous media environment.

Characteristics of Regulating Online Advertising

With its rapid growth, online advertising are having a big influence on the socio-cultural trend. Along with the rapid development of internet-related technology and growing social influence of internet contents, deliberation and regulation on online ads became an important issue. The reason why deliberation and regulation on online ads are important is the damage from online ads can be immediate, widespread, and irreversible compared to offline ads. In the actual management of online ads as well, unlike ads on the existing 4 major media, it is difficult to establish the system to deliberate on ads. It is because online ads and

pay-per-view non-realtime contents ads, unlike the existing broadcasting advertising and printed advertising, can be easily corrected or deleted and in case of disputes, and it is hard to prove the damage (Lee, 2007).

Also, in online ads contacting exposed ads and purchase of products and payment can be done simultaneously, so it is not easy to discern the false information in advertising messages. Moreover, there are increasing cases of inducing consumers with ad messages, making them pay instantly, and closing the cyber space. There is an urgent need for regulating ads but the helpless situation keeps happening where the object of regulation disappears even before regulation starts.

Online ads are hard to discern and distinguish compared to other ads. That is, defining and specifying online ads itself is difficult. In case of online ads, there is no clear social consensus as to which are considered ads among various posts that homepage owners posted.

Another factor that highlights the need for deliberation and regulation of online ads is that it is hard to clarify on which deliberative body the responsibility lies. Along with the emergence of services that cross many boundaries in the age of convergence of broadcasting and telecommunication, the distinction between traditional media such as broadcasting, telecommunications, and visual contents has become unclear. Accordingly, it has become unclear where the responsibility to deliberate on the sectors of broadcasting, telecommunications, and visual contents lies, blind spots for deliberation appeared, and the problem of discriminative regulations on different media has been raised (Lee, Lee, Han, & Shim, 2011). A realistic change became necessary about the existing perspective of regulating ads.

One of the important issues in regulating online ads is the adjustment between the freedom of expression and commercial behavior. The internet requires a different access from the existing paradigm of regulation in the sense that it is the most dynamic media that promote the expression of individuals or community (Kim, 2006). Problems can arise concerning the adjustment between the awareness about the 'online' space where the freedom of expression should be securely guaranteed and the awareness about the 'commercial behavior' that strongly requires regulation (Yook, 2008; Lee, 2005).

3. MAIN ISSUES REGARDING THE REGULATION OF ONLINE ADVERTISING IN NEW ADVERTISING ENVIRONMENT

Unification of Contents and Advertising

In the new environment of online ads, the distinction between contents and ads became difficult and this is emerging as a new issue in the regulation of advertising. Recently, the increase in advertising media with the appearance of new media, the emergence of new means of marketing communication, the tendency of consumers not trusting advertising, and the possibility of avoiding ads due to the development of technology, the effect of 4 traditional media advertising has reduced.

In this situation, as an effort of advertising industry to effectively deliver brand messages to consumers, there has been growing trend of combining contents and ads, in other words, inserting ads in contents (Bo, Pichard, & Gueve, 2010; Sung & Cho, 2012). Such efforts of advertising industry are realized in the form of branded contents, PPL, and virtual ads (Hudson & Hudson, 2006). Especially, with the recent spread of viral ads through the internet, the distinction between contents and ads on the internet is becoming more and more unclear.

One of the phenomena that are being recently generalized is branded contents, which are a combination of entertaining factors and brands, or branded entertainment. There have been increasing calls for regulations on the ads that are disguised as product reviews or expert's opinions, and ads that are merged in general contents. It is more likely that in online space where creative businesses are born, the situation where contents and advertising are mixed will become more common.

In the digital interactive data, broadcasting service environment which presupposes the interaction between consumers and media, the distinction between commercial and noncommercial contents will be more ambiguous. The coexistence of commercial and noncommercial contents is the representative issue among the problems of regulating the form of advertising. Ann(2013) reviewed this in the concept of hybrid advertising. In hybrid ads, the absence and vagueness of clues that show it is an ad, the frequent use of clues that disguise as articles were found to be big problems.

Considering the basic definition of advertising that it is an intentional persuasive behavior by advertisers who are specified to consumers, the unification of such contents and advertising, and convergence of noncommercial contents and commercial contents makes the distinction between advertising and contents unclear. This hides the intention of persuasive messages so there are calls for regulations on this type of ads and it is an issue that requires consideration.

Customized Advertising and Protection of Customers' Personal Information

With the increasing use of big data, customized advertising on the internet are growing more elaborately and faster than ever. Especially, through the analysis of big data that are collected via internet search, social networking such as Tweeter and Facebook, and location-based service of smart phone, it became possible to understand and analyze consumers' individual purchase, taste, and emotional patterns in real time and it is believed that customized advertising will be promoted more actively (Lee, 2010).

Concerning the growth of customized ads based on personal information, we get to face two perspectives that are contradictory to each other. In the ubiquitous environment where people get to depend on information and communication service wherever, whenever, and whatever they do, personal information takes on the economic meaning of something customers have to pay to enjoy such service, and for companies, it takes on the meaning of important corporate asset they can build through customized advertising.

On the other hand, customized advertising uses information-collecting devices such as cookies, which are saved in the user's device and collect information on user's internet activities, and for a significantly long time user's online behavior is watched, which raises the problem of infringing personal information. Moreover, as marketing effect is increasing along with the use of big data, more and more information tracking technology is developed. So the invasion of personal information by customized advertisements on the internet can become more serious (Ahn, 2013).

Concerning infringement and protection of personal information in customized ads, what requires more attention is personally non-identifiable information. With the development of ubiquitous environment in the age of big data, not only personally identifiable information that enables identifying individuals such as name, resident registration number, and address but personally non-identifiable information, which is treated anonymously and does not identify a specific person such as records on accessing sites, records on

using services, search history, area of interest, purchase history, and IP information, is collected and used, and applying this, customized ads are provided. As ads are made indiscriminately using personally non-identifiable information that can be used to identify information on consumers' behavior, tendency, and location, there is a growing concern on the infringement of privacy of internet users. In other words, the scale of 're-targeting' market that uses search history and purchase history of users is rapidly growing but it has been pointed out that there are insufficient guidelines on the protection of personal privacy.

Ad-Blocking Programs

Online ads can provide limitless information as it transcends time and space and it is characterized as bidirectional communication between companies and customers and innovative advancement as the means of target marketing about targeted customers. However, the characteristics of the internet as an interactive media that is accessible to anyone made it easy to block the ads that the media sends out and to intercept the interest of the media or advertisers. 'Blocking ads' refers to a series of behaviors that use tools and stop ads from being delivered to customers through advertising media as advertisers intended, reduce customer inducement by advertisers, and decrease the profit of advertisers or advertising media.

Recently there has been an increasing tendency of using online ad-blocking applications. Venture Beat, the IT-specialized media of the U.S., quoting recent data of eMarketer, reported that 1 out of 4 American internet users will use ad-blocking applications this year. With the emergence of such programs that facilitate skipping, deleting, replacing ads, the effect of advertisements through advertising media decreased and it put a serious dent on the sales profit of advertising media. So there have been movements to resolve this issue legally and discussions are made on the legal aspects of ad-blocking. It is expected that such ad-blocking programs will be the main issue concerning the regulation of online ads.

Ad-blocking can be seen as a problem of taking which side between the sales profit of advertising media and consumers' right to choose ads. However, we cannot force customers to watch unwanted ads to protect the sales profit from advertising and it goes against the flow of the time to stop the development of ad-blocking tools that are created as a result of technological advertising.

Fairness of Regulations

One of the important goals of regulating ads is to secure fair competition. That is, through fair competition, we can protect consumers and through the competition that is based on fair rules, regulations can be rationalized for the development of the whole industry. So at a time when media environment is rapidly changing depending on the convergence of broadcasting and communication, fairness of regulation among media emerges as an important issue and advertising cannot be excluded from this.

The characteristics of traditional regulations were to match specific network, device, and service, vertically divide the industries based on network and the industries based on platform, and apply regulations. In this method, there were no problems in distinguishing ads based on broadcasting and ads based on telecommunication. However, along with the convergence of broadcasting and telecommunication, with the problem of applying regulations on identical services transmitted through different networks, the problem of applying regulations on different services transmitted through identical network arose. This made the distinction between online ads and broadcasting ads ambiguous and made the issue of regulation more complicated.

Concerning regulations on online ads, as there are ads other than online ads, relativity and fairness in regulations compared to ads on other media is an important issue. Especially, in the recent environment of media convergence, online ads and ads on other media came into contact with each other, highlighting this issue even more. Also, in terms of regulating ads on other media, there have been voices that regulations should be strengthened on online ads. However, establishing effective regulations on each type of ads on media should be established considering the characteristics on each media and industry, not through mechanical comparison with other media. That is, the standard of judgment should be what kind of regulations on ads are for the benefit of consumers and for industries. Also, in the structure of the online advertising industry where there are no boundaries between countries, the issue of reverse discrimination in the regulation of domestic and overseas companies should be considered from the perspective of relativism of regulations.

Desirable Direction for Regulating Online Advertising in New Advertising Environment

Considering the benefits of contents and advertising that the new media can offer in the convergence of broadcasting and telecommunication concerning the unification of contents and advertising, the direction for regulations should be set to minimize damage and maximize benefits. First of all, it is problematic to apply regulations on advertising that used to applied to consumers who had to passively watch ad messages made for unspecific people to consumers who get to communicate actively with brands in digital interactive media environment where there are rich options and convenient access. Also, it is actually impossible to control extensive commercial contents in various situations that consumers choose and contact. Moreover, if viewers get accustomed to TV-commerce that is based on interactive data broadcasting service and TV, it can be more and more difficult to clarify the boundary between pure programs, ads, and commerce for apply regulation. Therefore, in the environment of convergence of broadcasting and communication where noncommercial and commercial contents get integrated, regulations on advertising should proceed toward the direction of emphasizing consumers' choice.

However, considering advertising is intentional persuasive behaviors by advertisers who are specified to consumers, we should avoid the situation where the intention of such persuasive messages is concealed due to the vague division between advertising and contents in the aspect of advertising ethics. For this, in the process consumers come into contact with commercial contents, they should at least let consumers know that they are commercial contents so that consumers can recognize they are watching commercial contents. This idea is supported by the fact that in the survey conducted for this study, participants said it would be desirable to mark commercial contents only on the initial images right after programs are converted to commercial contents. Regarding the scope of applying CIP (commercial in program), the interactive ads shown in programs, as is shown in the result of the survey on experts' awareness, it would be desirable to apply it to entertainment programs but not in news and programs about current issues.

Concerning protection of consumers' personal information in customized ads, for healthy and continuous growth of online customized ads, laws and regulations for the use and protection of personally non-identifiable information in customized ads should be established and guidelines should be specified. It is essential to establish laws and regulations on personally non-identifiable information and specify guidelines for the development of online customized advertising. For this, discussions should be made on whether the collection and use of personally non-identifiable information for customized ads infringes personal information of the consumers and the concept of personally non-identifiable information related

to regulations should be specified. Without this process, regulations that decide the scope and limitations of customized advertising are meaningless and it will be hard to achieve the goal of promoting customized ads and minimizing the infringement of personal information. So it is critical for the department in charge of this matter to present explicit criteria.

Also, concerning personally non-identifiable information that can identify specific individuals, businesses should prepare autonomous regulations and guidelines and try to protect it in the stage of collecting data. Only when guidelines are made and observed on personally non-identifiable information, consumers will actively use the internet and smart phones and companies will be able to predict future, make investment and develop technology under certain criteria. So this will be beneficial to everyone and in the national aspect and it will be possible to raise added value a lot more.

Concerning online ad-blocking programs, rather than siding with advertisers or media for the profits from advertising or protecting those who provide ad-blocking tools or users in favor of the development of technology, it will be a rational solution in the emergence of new ad-blocking techniques and the consequent infringement of rights to search for ways for a win-win situation through adjustment and cooperation and reflect each other's gains and losses in the process. However, in terms of searching for solutions within the boundary of law, rather than making compensation after damages occur, it would be desirable to promote institutions to prevent such incidents so that they can also be applied to other cases where ad-blocking hurts sales profit.

Concerning the fairness between regulating online ads and other media ads, horizontal regulations can be suggested. The characteristics of traditional regulations were to match specific network, device, and service, vertically divide the industries based on network and the industries based on platform, and apply regulations. It is horizontal regulations that can prevent problems that can arise in the existing vertical regulations and solve the fairness issue of regulating advertising in the age of convergence of broadcasting and telecommunication. In horizontal regulations, the main concept is to horizontally divide the area of broadcasting and telecommunication into the level of carriage and the level of contents and to separate the regulations on carriage and the regulations on contents. The key is by introducing the distinction between the level of carriage and the level of contents instead of introducing the distinction between broadcasting and telecommunication, to apply the identical regulations on each level (Kim, 2007).

Such method of horizontal regulations can be seen as an improved regulation responding to the convergence environment as it has the advantage that it can promote the competition between similar services by avoiding discrimination against a specific service and maintaining technological neutrality, and securing consistency in the regulation of similar services in the fast changing environment. Such horizontal regulation is a useful concept under the circumstances where there should be establishment of systems to regulate online ads in the convergence of broadcasting communication. That is, to guarantee the fairness of regulating ads in the diverse, new media that are appearing, it will be desirable to avoid the binary perspective of broadcasting and communication, or traditional ads and online ads, and to decide policies on regulating ads focusing on the contents that media provides or the nature of services.

4. CONCLUSION

This study discussed the desirable direction for regulating online ads in the new advertising environment. More specifically, it examined the new advertising environment and the features of regulating online ads,

the key point of this study, and reviewed the main issues related to regulating online ads that are newly raised in the new advertising environment. Based on the discussions on such issues, desirable direction for regulating online ads was suggested.

Considering the benefits of contents and ads that the new media can offer in the convergence of broadcasting and telecommunication concerning the unification of contents and advertising, the direction for regulations should be set to minimize damage and maximize benefits. Therefore, in the environment where noncommercial and commercial contents get integrated, regulations on advertising should proceed toward the direction of emphasizing consumers' choice and in the process consumers come into contact with commercial contents, they should at least let consumers know that they are commercial contents so that consumers can recognize they are watching commercial contents. Concerning protection of consumers' personal information in customized ads, for healthy and continuous growth of online customized advertising, laws and regulations for the use and protection of personally non-identifiable information in customized advertising should be established and guidelines should be specified. Concerning online ad-blocking programs, rather than siding with advertisers or media for the profits from advertising or protecting those who provide ad-blocking tools or users in favor of the development of technology, it will be a rational solution to search for ways for a win-win situation through adjustment and cooperation. Concerning the fairness between regulating online ads and ads on other media, it will be desirable to avoid the binary perspective of broadcasting and telecommunication, or traditional ads and online ads, and to decide policies on regulating ads focusing on the contents that media provides or the nature of services.

In the new advertising environment where new technologies are applied to ads and the nature and form of ads are changing rapidly, the fast growth of online advertising market will continue and its social influence will expand. In this situation, for online advertising to continue to grow in the desirable direction, it is important to regulate online advertising properly. Especially, considering the fast-changing reality of online advertising, the contents and direction of regulations should constantly change. Through this study, it is expected that discussions on the current main issues related to regulating online advertising will be actively made and policies and regulations on desirable online advertising will be established and executed.

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