

THE FDA AND Search Engines

After the FDA's recent batch of warning letters addressing sponsored links, the reaction by the majority of pharma companies was to withdraw these text ads. While hoping for further direction from the agency – which may or may not be forthcoming – marketers are now considering options for using brand references in text ads.

BY MICHAEL PEROFF AND STUART LEE FRIEDEL

It came as quite a surprise to the DTC pharmaceutical marketing community – pharma companies of all sizes and their agencies – when the FDA issued warning letters in April to 14 pharmaceutical companies targeting 48 specific brands. Some of the brands cited were Avandia, Boniva, Caduet, Femara, Januvia, Plavix and Spiriva. The core of the complaint was the FDA's belief that the pharma companies' search engine marketing (SEM) practices failed to communicate required risk information while referencing product claims.

Specifically, the FDA stated that the paid text ads “are misleading because they make representations and/or suggestions about the efficacy of (specific brands), but fail to communicate any risk information associated with the use of these drugs.”

Said another way, the FDA wants the search engine text ads that appear at the top and right side of a search engine results page to include full disclosure of risk information. This is mandated even though the search engines limit these text ads to approximately 95 characters for the headline and two rows of copy – and that includes spaces!

It's like trying to squeeze 10 pounds of copy into a 4-ounce box!

The initial reaction from many was, “Why now?” Pharmaceutical companies have been running search engine text ads for almost eight years. Why was the FDA acting now? Was there a batch of complaint letters from consumers? Had marketing research revealed confusion among readers of the ads?

If such complaints or confusion existed, they were not apparent to all those involved.

Mixed reaction, unintended consequences

The reaction by the majority of the pharma companies receiving the warning letter was to withdraw their SEM text ads. Some of the companies revised their text ads, by either removing brand references in the text ad, or using the brand name, but without any reference to the therapeutic condition.

The initial responses on many pharma and SEM blogs indicated the FDA action would have some unintended consequences. Now that most of the pharma ads were taking a hiatus on the search engines, foreign pharmacies and homeopathic medical cures would dominate the text ad arena when consumers searched for information on health problems.

This in turn would drive bidding prices lower, now that the legitimate pharmaceutical companies weren't competing for SEM ad positions on Google, Yahoo! and many other search engines. Surely, the FDA wasn't planning to make it easier and more cost-efficient for the non-US pharmacies and homeopathic competitors to expand their market share.

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The FDA and Internet media

But there are bigger issues at hand that the FDA does not recognize. This new communications medium was created just as we entered the 21st century. Like new media vehicles from the 20th century – radio and TV – consumers interact differently with the new media than they had with prior media like newspapers and magazines. This is the case with the Internet, and in particular with search engines.

Search engines have prospered by offering information-seekers an extraordinarily efficient way to obtain information. The practice of using keywords that generate lists of Web sites (organic listings) and related text ads (paid listings) are commonly viewed as the first step in a simple path to the information they are seeking.

It is commonly known that the “real information” lies behind the click on the text ad. The text ad acts as a mini qualifying statement that helps the search engine visitor narrow

down their selection of information. This is clearly the “MOA” – Mechanism of Action – for this new medium.

The search engine visitor doesn't interact with that text ad like they would a print ad in a magazine, or for that matter, a TV commercial. The text ad is simply a vehicle to the information, not a branding vehicle, from where a consumer might be motivated to make a “purchase decision.”

This is a very important distinction. The FDA is viewing search engine text advertising as “stand-alone” communication, thereby triggering requirements for full disclosures and clear risk information. These rules serve a purpose when applied in the right communication context. This is *not* the case with search engine text ads. Text ads have to be considered in a more practical and realistic way. And in a way that is appropriate for consumers who use the medium.

If the FDA had empirical research, refuting this premise, or reports of consumers being misinformed by text ads and making complaints of erroneous information based on the text ad alone, perhaps there might be a case for supporting its action. But none have been offered.

Insisting on the application of rules initially established for print and television media gets in the way of providing broad and easy access to important healthcare information for the millions of consumers who turn to search engines for this purpose. The FDA needs to consider an alternative ruling, one that is more appropriate for this new medium of text ads appearing on search engines.

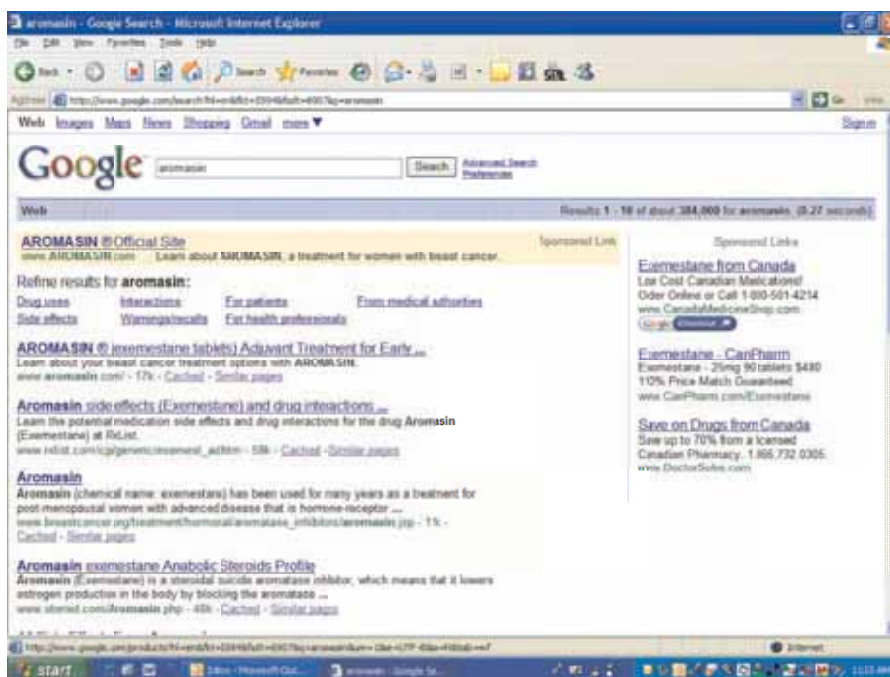
Looking for solutions

The Federal Trade Commission (FTC) may offer a regulatory solution for online marketing.

Perhaps the FDA should follow the lead set by the FTC. Like the FDA, the FTC has recognized that if an advertisement makes express or implied claims that would be misleading without qualifying information, the information must be disclosed. But unlike the FDA, the FTC has recognized that it may not always be necessary for that information to be disclosed in the advertisement.

In the FTC's DOT Com Disclosure Guidelines, the commission reaffirms that a disclosure is more effective if it is placed near the claim it explains. However, as the commission notes, Web sites are interactive and have a certain depth, such as pop-up screens, multiple pages linked together, and so forth.

Hence, in circumstances where it may be difficult or impossible to ensure that a



disclosure appears on the same screen as the claim, clear and conspicuous directions given to the consumer to scroll or link to see important information would be appropriate.

In the guidelines, the FTC advises that in those circumstances when scrolling is appropriate, the advertisers should use text or visual cues to encourage consumers to scroll. Advertisers, it goes on, should avoid Web page formats that discourage scrolling.

Hyperlinked disclosures are particularly useful, says the FTC, if the disclosure is lengthy. Effective hyperlinks should be obvious, and should disclose the importance and relevance of the information they link to. The links must also be proximate to the claim that triggers the disclosure and gets the consumer to the click-through page easily and quickly.

The task for pharma is to drag the FDA into the 21st century.

The power of organic search

The dilemma for pharma marketers, however is to determine what to do while the FDA considers Internet media.

While we are waiting, there are actions pharma marketers can do to help maintain their presence on search engines. Although these are not the ultimate solutions for this problem, you can still generate awareness and interest in your message and your brand.

Without search engine text ads or ads that are no longer as effective, it is critically important that you are effectively seen on the organic side of the search engine results. The reason this is so important is that some studies indicate that 80 percent of consumer clicks are from organic search. So, search engine optimization (SEO) must be on the top of your list, now and on a continuing basis.

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Make sure that you do at least two things even if you've previously optimized your Web site. First, have an on-going plan that continually tweaks your SEO initiative. Between competition regularly taking steps to improve their rankings, and search engine algorithms being continually adjusted, you can easily slide out to sea with those tidal forces.

The second step is to include regular analysis of your ranking performance and how your competition is performing in the ranking race. On-going analytics enable you to remain vigilant with the tidal SEO forces at play.

Back on the SEM front, there are ways to use text ads to drive qualified traffic to your branded Web site. The first is to

drop the brand name from the ad and the URL and replace it with copy that relates to the medical problem – with a link to the branded site. Both Singulair (Merck) and Femara (Novartis) are using the following copy, linking to their branded Web sites:

**Suffering from Allergies?
 Find Out About Treating Allergies
 And How To Manage the Symptoms
www.info-on-allergies.com**

**Breast Cancer Facts
 Information on a Breast Cancer
 Treatment. Learn More Today.
Breast-Cancer-Treatment-Options.com**

Another alternative that some of the pharmaceutical companies are using is to include their product's brand name, but without any claim references – a brand reminder ad. It's a direct request to go the brand's official site, where claims and risk information are available.

**AROMASIN® Official Site
www.AROMASIN.com
 Find AROMASIN (exemestane tablets) Helpful
 Info, Links and Resources.**

**Official Site For BONIVA®
www.Boniva.com (ibandronate sodium)
 Learn More About A Free Trial Offer.**

While both of these approaches reflect reasonable interpretation of the FDA guidance, some searchers will not be motivated to click on these types of text ads. A sizable population that turns to search engines to find information will not be effectively attracted to your branded Web site. This is unfortunate, as many of these people will miss an opportunity to be proactive with their healthcare needs.

In this situation, everyone loses. **DTC**

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