Internet Law

- Module 4
- Consumer Protection Online

Consumer Protection Overview

- B2B versus B2C
- FTC
Fraud Online

- Easier . . .
  - Low cost to setup shop . . . swarm effects?
  - Easier to simulate a real business
  - New, zero-cost-enabled deceptive marketing techniques
  - Reduced filtering by speech intermediaries
  - Jurisdictional haven

- phishing

Trends in BadWare

Badware is software that fundamentally disregards a user’s choice over how his or her computer will be used. There are several commonly recognized terms for types of badware, including spyware, malware, and deceptive adware.

- Drive-by downloads
- Web Identity Theft
- Compromised web sites
  - Hacked
  - Allowed third-party content
  - Timely exploits
- Dark Corners
- Social Engineering
Click Fraud

- Legit advertiser
- Ad distribution via Google or Yahoo
- Paid to read groups
  - Parked domain names
  - “Typo-squatting” domain names
- Ad distributor difficulty in discovering invalid clicks
- Perfect measurement promise of online advertising?

Review: I have spent time looking at all the reports Google/Yahoo/MSN have been providing its customers for some time now. The one report that none of them provide is "Length of Visit by Keyword". This is a report that would help anyone with managing PPC campaigns in a major way. So, why is this report not supplied by any of the search engines out there? It's simple! If you knew which keywords people were clicking on and then just jumping out you could adjust you spending on those keywords accordingly. All the major search engines have the data and tools available to provide you with this report. I also believe that with the data that most of the major search engines collect that they could even provide us with a much better report than the "Length of Visit by Keyword" report I've been talking about. I would love to see the raw data that Google collects on the sponsored ad clicks.

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Regulatory Agency Responses & Law Enforcement

- The markets . . .
- Enforcement online
  - Advantages
    - Persistent information and communications repositories
    - Dissemination of consumer protection information
    - Self-help and consumer organizations
  - Disadvantages?
Online Advertising Issues - Information Disclosures

- FTC Dot Com Disclosures
  - Disclosures qualify or limit a claim, not cure a false claim
  - Clear and conspicuous disclosures in web site content
    - Proximity & placement
    - To hyperlink or not to hyperlink
    - Consider various user interface devices or modes
    - Interactions with banner ads
    - Disclosures displayed prior to purchase
    - Multimedia

Applicability of Rules referencing writing

- Telemarketing Sales Rule

- Meaning of “telephone”
  - Meaning of “computer” with “smart phones”?

- What is “mail”
Blurring Advertising and Editorial Content

- Metatags as true or untrue editorial content
- Paid placements
- Cloaking as a spamdexing technique
ESIGN and Consumer Issues

- Consumer Union commentary on UETA
  - Electronic documents as good for consumers as paper?
    - Keeping paper
    - Backing up computers
  - Persistency of email addresses
  - Seriousness of click versus signature?
  - Asymmetric use of electronic information versus paper

- ESIGN
  - Anti-discrimination principle for electronic signatures
  - Requirements for obtaining consent to electronic disclosure