

iab

Internet Advertising
Bureau www.iabuk.net

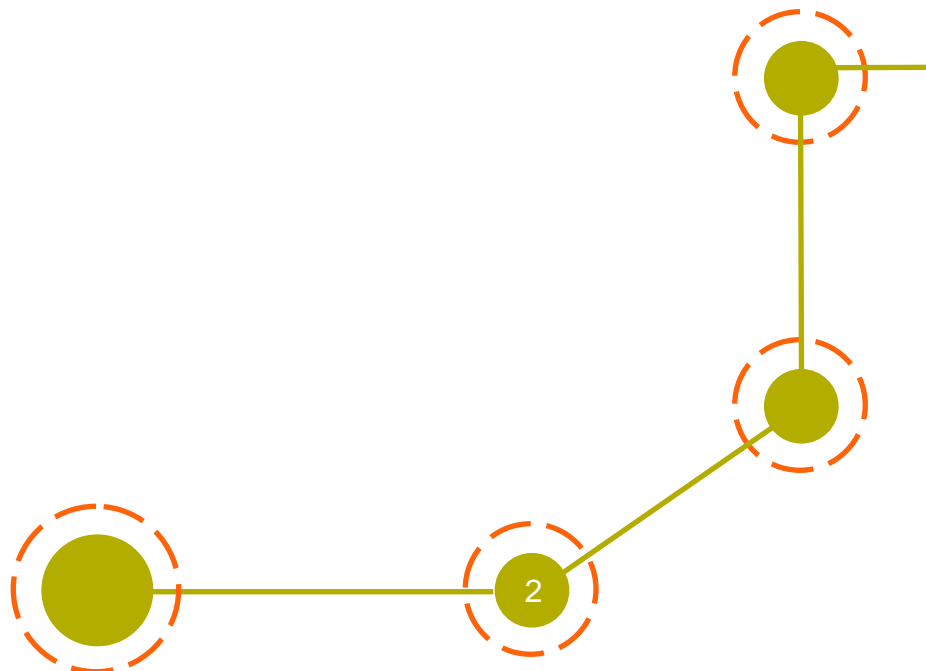
Search Marketing Help Centre



IAB Search Marketing Help Centre

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Introduction

Search engine marketing places a lot of responsibility on advertisers, raising issues that can affect your campaigns.

These include trademark use and copyright, user privacy, invalid clicks and the intellectual property of the campaign such as traffic data and keyword lists.

All of these issues are, to varying degrees, bound by UK law. As an advertiser you **must** be aware of all of the issues and the best practice involved in each area to prevent and deal with potential problems.

The IAB Search Marketing Help Centre explains each of these areas, offering advice and recommendations to make sure your campaigns meet best practice at every step of the way.

If you have any questions that aren't answered here, please contact the IAB directly for additional advice via our Programmes Manager, Jack Wallington, jack@iabuk.net.



About search marketing

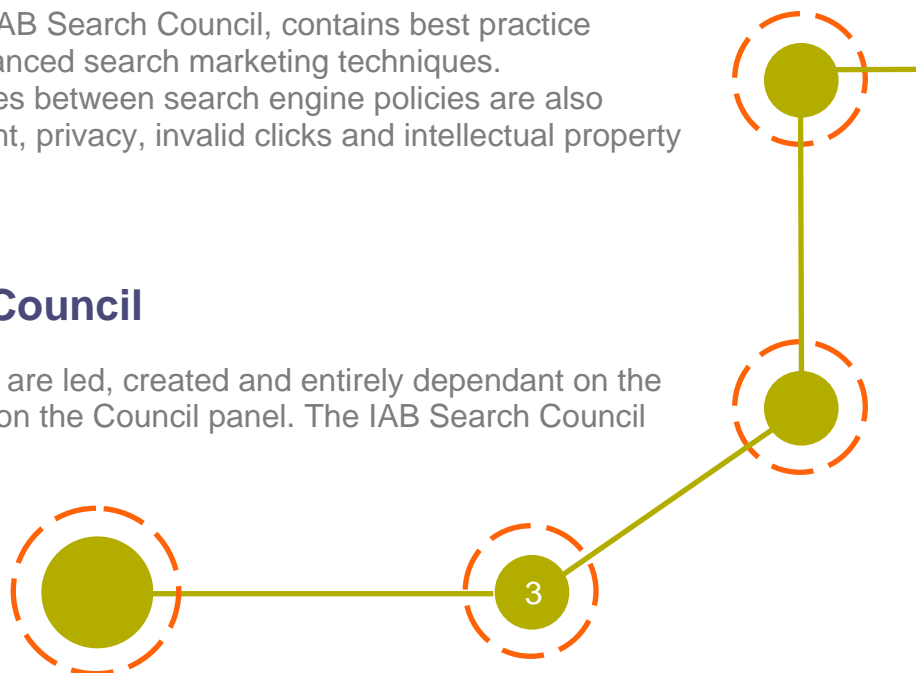
Search marketing is a range of techniques used to increase the visibility of a website and brand within search engine results pages. This takes the form of both pay per click (PPC) search adverts and positioning in natural search using search engine optimisation (SEO) of campaigns and websites.

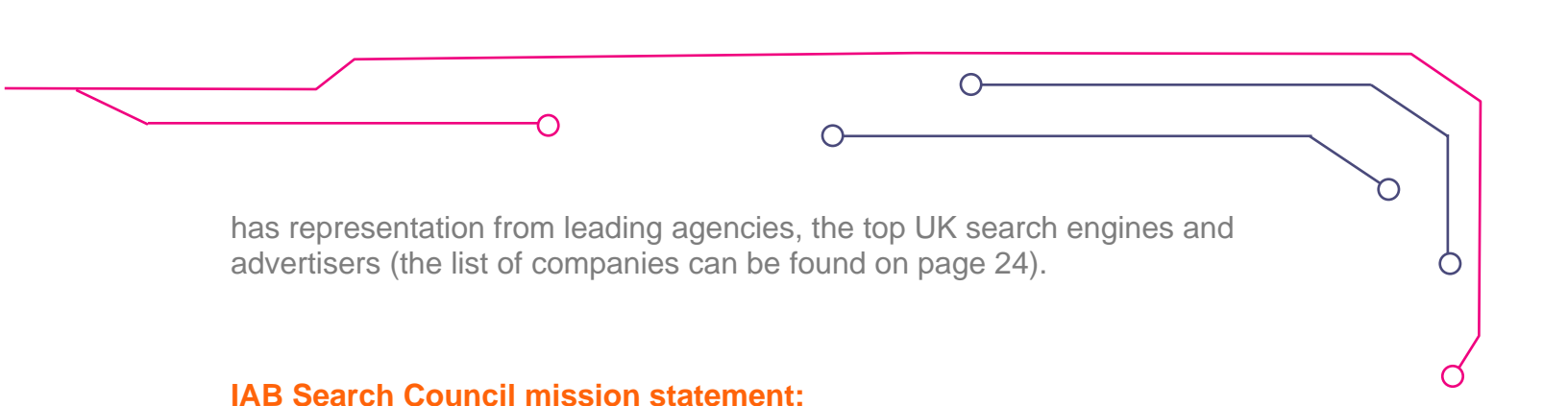
The UK search industry is now a significant advertising medium in its own right, worth over £1.6 billion in 2007. Growth has been fast and the medium continues to grow rapidly in size and importance. This increased importance has brought increased responsibility for marketers.

This resource, produced by the IAB Search Council, contains best practice information for all basic and advanced search marketing techniques. Explanations of the key similarities between search engine policies are also included for trademarks, copyright, privacy, invalid clicks and intellectual property in campaigns.

About the IAB Search Council

The IAB Search Council projects are led, created and entirely dependant on the company representatives sitting on the Council panel. The IAB Search Council





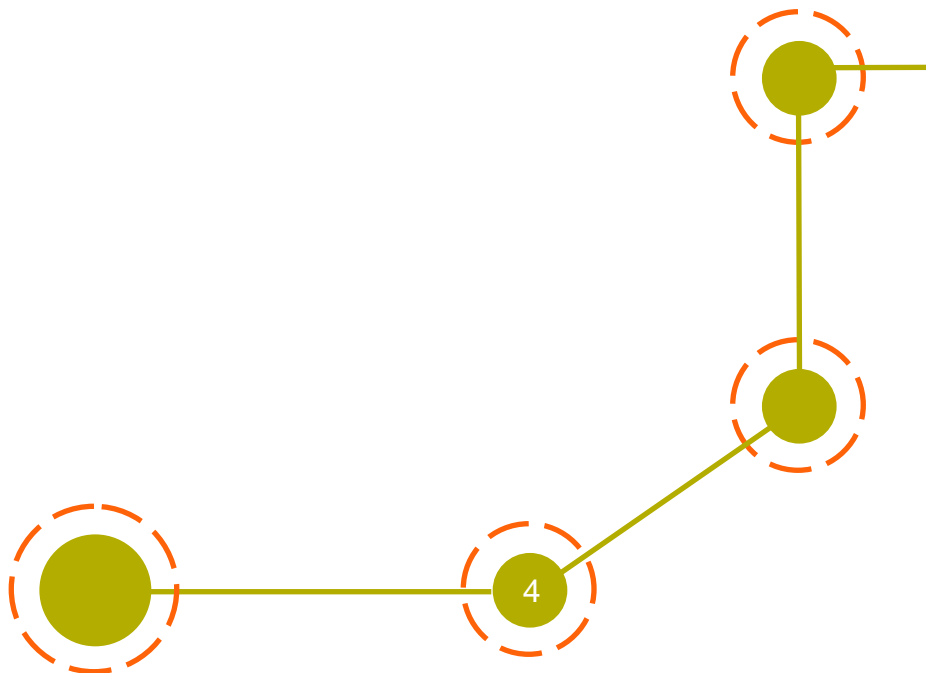
has representation from leading agencies, the top UK search engines and advertisers (the list of companies can be found on page 24).

IAB Search Council mission statement:

- To inspire and generate growth in search marketing through research, best practice and educating marketers and agencies.

Search marketing definition:

- A range of techniques used to increase the visibility of a website and brand within search engine results pages.



Trademarks

Google, Microsoft and Yahoo! all require advertisers to comply with trademark law when using their services. Their policies and terms and conditions state that the use and monitoring of trademarks is currently the responsibility of **you**, the advertiser.

This section will explain what a trademark is, what the main issues are in search and the best processes to follow to protect your trademarks. The topics covered in this section are:

1. What is a trademark?
2. Why is trademark law relevant to search marketing and what are the main issues?
3. How do I protect a trademark in search?
4. Are there differences between the search engine trademark policies?
5. When can I use a trademark in the copy of search engine adverts?
6. What if a trademark of mine is being used by another company without my permission?
7. What are the rules for misspelt trademarks in search?
8. What do I do if I believe someone is using my trademark against search engine policies?
9. What if the problems continue?
10. What are the rules for affiliates?
11. What happens if I have used someone else's trademark in search marketing?
12. Useful links



1. What is a trademark?

There are many definitions of a trademark but the IAB adopts the UK Intellectual Property Office's own definition:

"A trademark protects any sign or symbol that allows your customers to tell you apart from your competitors. You can register a name, logo, slogan, domain name, shape, colour or sound."

A trademark must be:

- *distinctive for the goods and services you provide*

- *not deceptive, or contrary to law or morality.*

If your trademark meets these requirements, you may want to consider applying for a registered trademark. Your trademark does not have to be registered but an unregistered mark will rely on the common law of passing off. If you have a registered trademark, you must renew it every 10 years to keep it in force.”

Source: UK Intellectual Property Office

2. Why is trademark law relevant to search marketing and what are the main issues?

Search is a unique medium that allows advertisers to add their own adverts without going through a mediator. Trademark law is highly relevant to search marketing because you, the advertiser, are responsible for trademark use.

The trademark issues unique to search are:

- **Bidding on trademarks** – Microsoft and Yahoo! currently don't allow bidding on competitor trademarks without permission. Google don't encourage advertisers to bid on competitor trademarks but their engine does make it possible in the UK if you choose to.
- **Broadmatching** – all search engines include this option. Broadmatching allows an advert placed under a particular keyword to appear on any search with that word included to reach a wider audience. For example, an advert placed on the keyword “internet” with broadmatching turned on can appear under searches for trademarks that include it like ‘internet advertising bureau’. This can result in adverts unintentionally appearing under a search for a trademark. Search advertising admin areas make it possible to block certain keyterms including trademarks. In the UK the advertiser must do this.
- **Synonymous keywords** – search engines can associate two words closely linked by meaning to help consumers find content e.g. ‘movie’ and ‘film’. If an advertiser placed an advert on the keyword ‘movie’, the advert could also appear under ‘film’. Like broadmatching this makes it possible for certain keywords to result in your brand appearing under a trademarked term.



3. How do I protect a trademark in search?

The IAB recommends that you register trademarks as soon as possible to protect them in search and other mediums. A trademark doesn't have to be registered to be protected under common law, but it will certainly make disputes significantly easier to resolve. Registration is carried out by the UK Intellectual Property Office.

The internet is a global medium even if you're not a global company. You will have to consider the implications of this when registering your trademarks.

4. Are there differences between the search engine trademark policies?

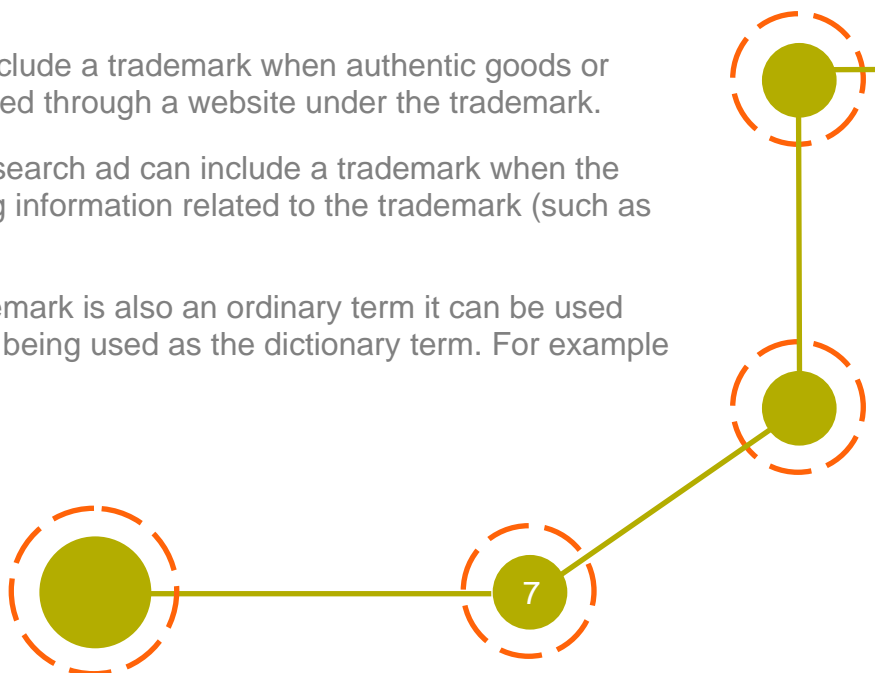
It is worth noting some key differences in attitudes to trademarked brands between the different search engines.

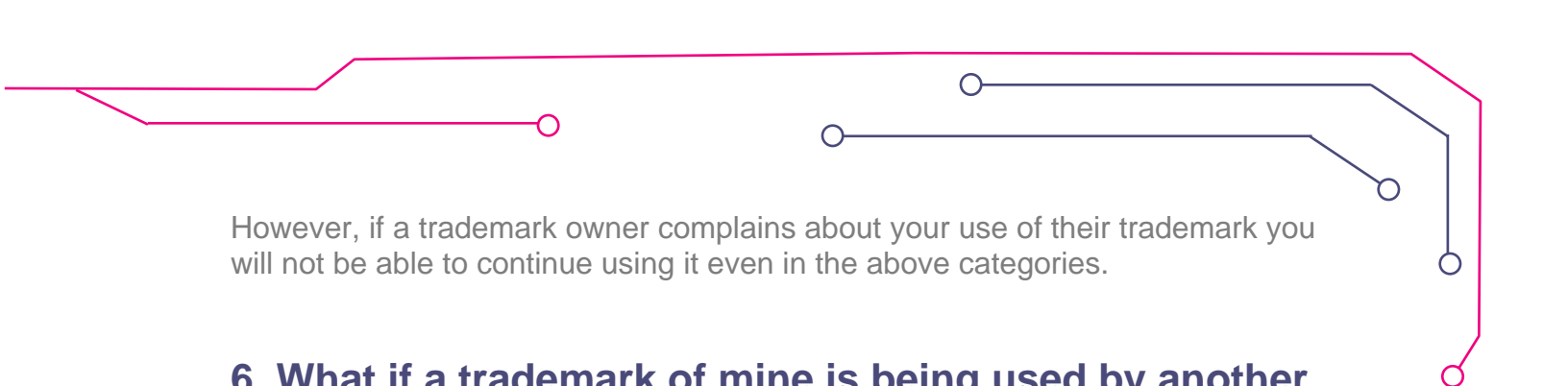
Microsoft and Yahoo! do not allow advertisers to bid on competitor trademarks and they will investigate competitor use when notified. Google does not encourage bidding on competitor trademarks but the engine does make it possible if the advertiser should choose to and will stop its use once a complaint is received.

5. When can I use a trademark in the copy of search engine adverts?

All trademark law applies to online content including search engine adverts. Search marketers should make sure they only use a trademark in their adverts in the below instances:

- **Sales** - A search ad can include a trademark when authentic goods or services are being distributed through a website under the trademark.
- **Information provider** - A search ad can include a trademark when the website's focus is providing information related to the trademark (such as reviews or news).
- **Ordinary terms** - If a trademark is also an ordinary term it can be used under UK law if it is clearly being used as the dictionary term. For example "apple".





However, if a trademark owner complains about your use of their trademark you will not be able to continue using it even in the above categories.

6. What if a trademark of mine is being used by another company without my permission?

This depends on whether it is being used:

- lawfully or not and;
- in paid or natural search.

In natural search, the advertiser using the trademark is entirely responsible and you must deal with them directly.

In paid search, companies that advertise in search engines are again responsible for the use of trademarks but search engines will get involved when necessary. In the first instance the IAB recommends that you contact the advertiser directly to raise awareness of, and attempt to resolve, the issue. If the issue remains unresolved you should contact the search engine.

Each search engine has customer services that will investigate concerns over the use of a company's trademark. Once contacted the search engine will review the advert in question and when appropriate either advise the advertiser to remove the listing or remove it themselves.



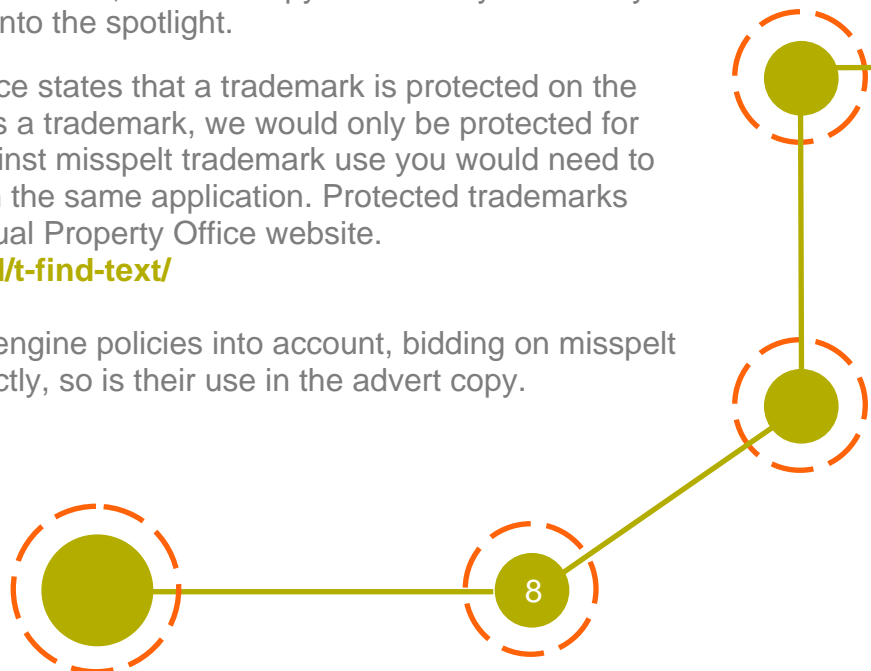
7. What are the rules for misspelt trademarks in search?

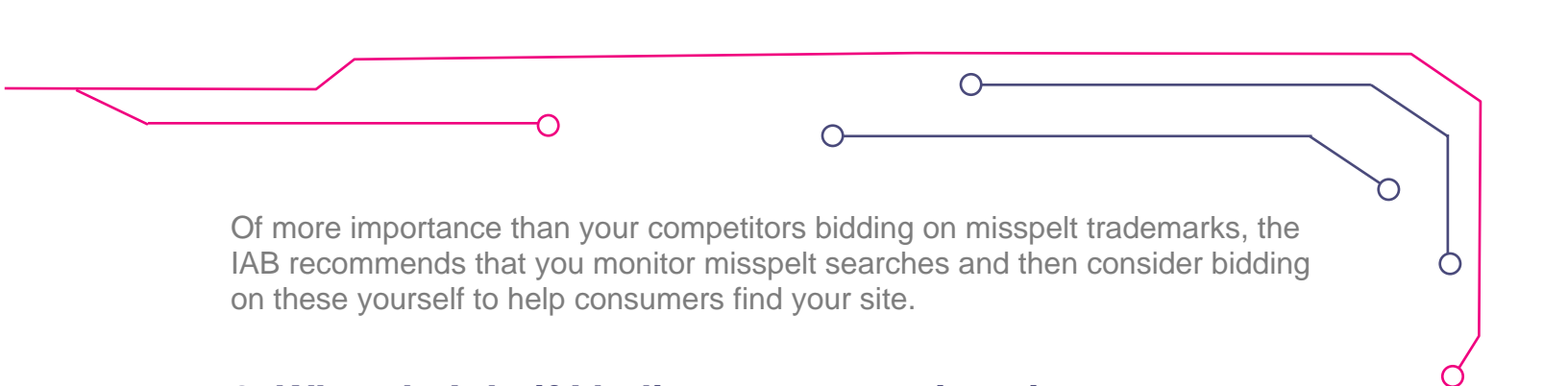
Misspelling of trademarks to ride the wave of a popular brand is a problem that long precedes search marketing. However, because search marketing places the responsibility on advertisers to place ads, write ad copy and the keywords they target, it has been thrust further into the spotlight.

The UK Intellectual Property Office states that a trademark is protected on the basis of appearance, so if 'IAB' is a trademark, we would only be protected for that spelling. To fully protect against misspelt trademark use you would need to register a series of trademarks in the same application. Protected trademarks can be found on the UK Intellectual Property Office website.

<http://www.ipo.gov.uk/tm/t-find/t-find-text/>

Taking both this and the search engine policies into account, bidding on misspelt trademarks is permitted, and strictly, so is their use in the advert copy.





Of more importance than your competitors bidding on misspelt trademarks, the IAB recommends that you monitor misspelt searches and then consider bidding on these yourself to help consumers find your site.

8. What do I do if I believe someone is using my trademark against search engine policies?

If a company is bidding on or using your trademark for search engine adverts first check the rules of the search engine you have seen the advert on. As discussed above, each search engine has a slightly different trademark policy and the company could be using your trademark legitimately.

Once you have checked to confirm the trademark is being used inappropriately, contact the advertiser directly. It could be that they don't realise there is a problem. In most cases a simple email or phone call will be the quickest way to solve the problem.

Should the company not stop or change their use of your trademark you can contact the search engines directly. Each search engine has a complaints form and procedure (found on the following page).



9. What happens if the problems continue?

If, after all of the above steps have failed and the advertiser continues to illegally use your trademark in ad copy, you can decide to take legal action against the offending advertiser through the UK Intellectual Property Office.

<http://www.ipo.gov.uk/tm/t-manage/t-useenforce/t-useenforce-dispute.htm>

10. What are the rules for affiliates?

In the UK, affiliate websites are entitled to use trademarks as long as they adhere to the rules discussed above.

The IAB recommends that the owner of a trademark offers clear guidelines for its use by affiliates in search engines within their brand guidelines.

11. What happens if I have used someone else's



trademark in search marketing?

If a concern has been raised over you using a trademark in your advert copy in a search engine that proves to be valid, the IAB would recommend that you immediately stop using the term and then ask permission! If you have a legitimate use for the trademark, you can avoid any further dispute by explaining to the owner and seeking permission for use.

12. Useful links

The UK Intellectual Property Office has a large UK trademark law resource - <http://www.ipo.gov.uk/tm.htm> - but for search engine specific information, please view the related pages on each of the search engine websites at the foot of this page.



Search engine trademark help pages

Google's Trademark Complaints Procedure

http://www.google.com/tm_complaint.html

Microsoft adCenter Trademark Policy

http://advertising.microsoft.com/Home/Article.aspx?pageid=708&Adv_Articleid=3216

Yahoo! Search Marketing's Editorial Guidelines

<http://help.yahoo.com/l/uk/yahoo/ysm/sps/start/editorial/content.html>

Copyright

Google, Microsoft and Yahoo! all ask advertisers to comply with copyright law when using their services. Google and Yahoo! have their own copyright policy and complaints procedure and Microsoft will be happy to investigate concerns regarding copyright and address on a case by case basis.

Like trademarks, all of the search engine policies state that the use and protection of copyrighted content is currently the responsibility of **you**, the advertiser.

Copyright law and its application in search marketing is very similar to that for trademarks. As such, the previous trademark section covers the majority of issues. This section will explain what copyright is and highlight the main issues specific to copyright.



1. What is a copyright?
2. How do I register and protect copyright in search marketing?
3. Why is copyright law relevant to search marketing and what are the main issues?
4. When can I use copyrighted material in search marketing?
5. Useful links

1. What is copyright?

The UK Intellectual Property Office defines copyright as:

“Copyright protects creative or artistic works. You should only copy or use a copyrighted work with the copyright owner’s permission.

You can copyright:

- **literature**, including novels, instruction manuals, computer programs, song lyrics, newspaper articles and some types of database
- **drama**, including dance or mime
- **music**
- **art**, including paintings, engravings, photographs, sculptures, collages, architecture, technical drawings, diagrams, maps and logos

- **layouts** used to publish a work, for a book
- **recordings** of a work, including sound and film
- **broadcasts** of a work

Copyright applies to any medium. This means that you must not reproduce copyright protected work in another medium without permission. This includes, publishing photographs on the internet, making a sound recording of a book, and so on.

Copyright does not protect ideas for a work. However, when an idea is fixed, for example in writing, copyright automatically protects it. This means that you do not have to apply for copyright.

A copyright protected work can have more than one copyright, or another intellectual property (IP) right, connected to it.”

Source: UK Intellectual Property Office



2. How do I register and protect copyright in search marketing?

You cannot register for copyright, as mentioned above, the process is automatic once an idea has become fixed (e.g. in writing). The IAB recommends that you gain witnesses for copyrighted material in writing as soon as possible – preferably from a legal representative. There are companies that offer unofficial registration <http://www.ipo.gov.uk/copy/c-claim/c-register.htm> but this may not be necessary as long as you have a record.

3. Why is copyright law relevant to search marketing and what are the main issues?

As discussed in our trademark section, search is a unique medium that allows advertisers to list their own advert and web content without using a mediator. Copyright law is therefore highly relevant because the advertiser holds primary responsibility for the use and protection of copyrighted material.

4. When can I use copyrighted material in search marketing?

As stated in the above definition of copyright, you can only use protected copyrighted material when you have the permission from the owner. This applies to all mediums including search.

There are separate rules for trademarks like a brand name. See our trademark section for full information.

5. Useful links

The UK Intellectual Property Office has a large UK copyright law resource - <http://www.ipo.gov.uk/copy.htm> - but for search engine specific information, please view the related pages on each of the search engine websites at the foot of this page.



Search engine copyright help pages

Google's copyright information page and complaints procedure

<http://www.google.com/adwords/learningcenter/text/19473.html#19475>

Microsoft adCenter Trademark Policy (covers copyright)

Will investigate concerns regarding copyright and address on a case by case basis. Please contact customer services or your account representative.

http://advertising.microsoft.com/Home/Article.aspx?pageid=708&Adv_Articleid=3216

Yahoo!'s Copyright and IP Policy

<http://searchmarketing.yahoo.com/legal/copyright.php>
<http://info.yahoo.com/copyright/details.html>

Privacy

Google, Microsoft and Yahoo! all collect and use consumer data to run and improve their services. All of the search engines make **significant efforts** to protect user data and have privacy policies relating to the data they collect and store to protect their customers.

1. What do the policies include?
2. What personal information and data is collected?
3. What is the information collected used for?
4. What choice and options do people have over the information collected?
5. What security do search engines employ to protect user data?
6. If a user has a query about the data collected about them in search engines, who do they contact?
7. What data is collected by agencies and advertisers?
8. Useful links



1. What do the policies include?

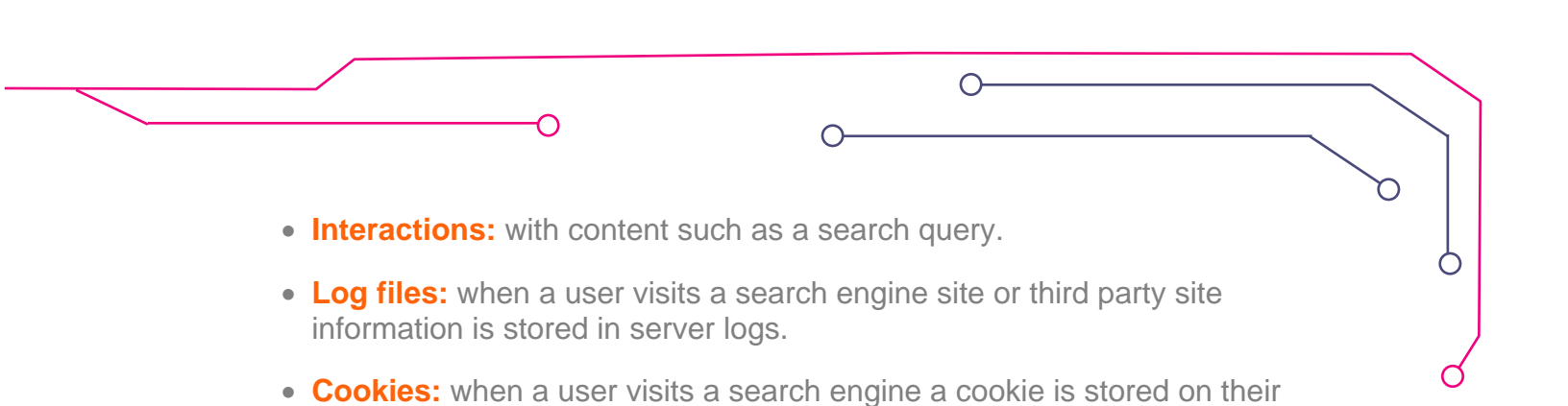
Each of the search engines offers explanations of:

- Personal information and other data collected;
- Uses of the information collected;
- The choice and options a user has over the information collected;
- Security of information and information sharing;
- Methods of contact.

2. What personal information and data is collected?

Each of the search engines explain that they collect personal information and data when you visit their sites or third party websites through a number of means including:

- **Registration data:** when a user registers with the search engine they are asked to create an account.

- 
- **Interactions:** with content such as a search query.
 - **Log files:** when a user visits a search engine site or third party site information is stored in server logs.
 - **Cookies:** when a user visits a search engine a cookie is stored on their computer making their browser uniquely identifiable. The cookie records details on how a person searches to improve their experience in the future. This does not include personally identifiable information.
 - **IP addresses:** each computer or device used to access the internet will usually have a unique IP address, a short series of numbers. IP addresses are automatically collected by all websites including search engines.
 - **Web beacons:** Yahoo! offers web beacons to advertisers. These are files embedded into web pages that communicate with cookies on a person's computer to track their activity on the search engine and on advertiser websites.



3. What is the information collected used for?

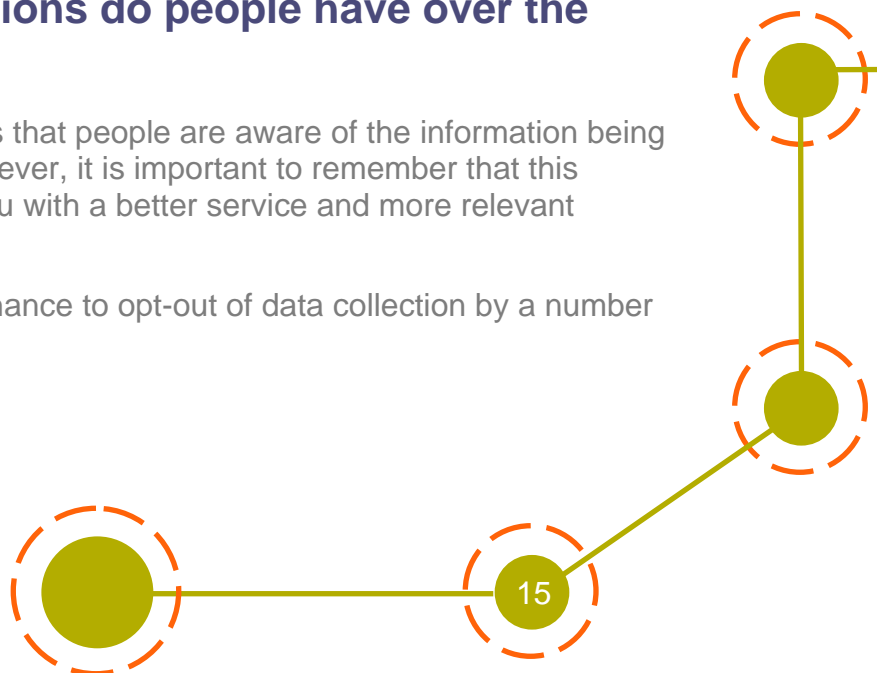
Each of the search engines use the information they collect to:

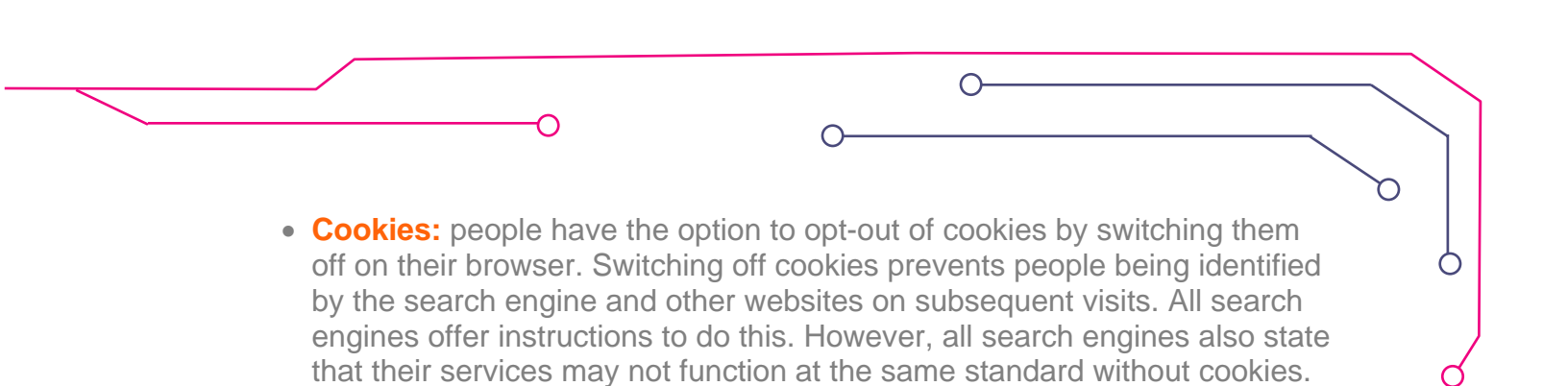
- Operate their existing services
- Improve their services
- Personalise content and advertising
- Provide anonymous reporting to internal and external clients

4. What choice and options do people have over the information collected?

The IAB, of course, recommends that people are aware of the information being collected by search engine. However, it is important to remember that this information is used to provide you with a better service and more relevant advertising.

Each search engine offers the chance to opt-out of data collection by a number of approaches. These include:



- 
- **Cookies:** people have the option to opt-out of cookies by switching them off on their browser. Switching off cookies prevents people being identified by the search engine and other websites on subsequent visits. All search engines offer instructions to do this. However, all search engines also state that their services may not function at the same standard without cookies.
 - **Registration:** by not setting up or using an account, people can opt out of personal data collection tied to their accounts. However, people then won't be able to use services that require an account.
 - **View, correct and delete:** when requested to do so, search marketing engines will do everything reasonable to provide people with their stored information. People then have the opportunity to correct or delete their information. Information provided when registering for an account on a search engine can be edited at anytime on all of the search engines.



5. What security do search engines employ to protect user data?

Each of the search engines take many precautions to protect user data including:

- All search engines have security procedures and systems in place both online and offline to protect user data.
- No search engines sell user information.
- They share information only with third party companies that require the information to complete the services requested by the user.
- Additionally, Microsoft and Yahoo! are both TRUSTe verified*.

6. If a user has a query about the data collected about them in search engines, who do they contact?

Each of the search engines offers a method of contact within their privacy policies to answer questions.

7. What data is collected by agencies and advertisers?



Agencies and advertisers also collect anonymous user data in relation to search through their user analytics programmes such as DART for agencies and Site Intelligence, WebTrends and Google Analytics for advertisers.

These programmes track where a click has come from, a user's IP address, the keyterm used to find the advert, the volume of traffic and the user journey through the advertiser website. None of the data can be associated with consumers' personal details but it can be tracked at an individual level using the IP address.

Advertisers must make it clear within their own privacy policy that they are collecting this data.

8. Useful links

Their privacy policies can be found using the links in the table below:

Search engine copyright help pages

Google

Overview: <http://www.google.com/privacy.html>

Complete policy: <http://www.google.com/privacypolicy.html>

Microsoft

Overview: <http://privacy.microsoft.com/en-gb/default.aspx>

Overview: <http://advertising.microsoft.com/microsoft-adcenter/privacy-policy>

Complete policy: <http://privacy.microsoft.com/en-gb/fullnotice.aspx>

Yahoo!

<http://info.yahoo.com/privacy/uk/yahoo/>

* TRUSTe certify and monitor web site privacy and email policies, monitor practices, and resolve consumer privacy problems. For more information visit <http://www.truste.org/>



Invalid clicks

Clicks on paid search listings that aren't genuine are known as 'invalid clicks'. There are a number of known causes of invalid clicks including fraudulent activity (click fraud) but the most common cause is **user error**.

All search engines operating within the UK have a **zero tolerance** to invalid clicks and will not bill advertisers for clicks that are known to be invalid. They all continuously improve their processes to tackle invalid clicks and protect advertisers.

1. What is an invalid click?
2. What causes an invalid click?
3. How do search engines protect advertisers from invalid clicks?
4. How do invalid clicks affect reporting and billing?
5. What do I do if I have been affected by invalid clicks not identified by the search engine?
6. Why can there be a difference between my campaign reports and the search engine's?
7. Useful links



1. What is an invalid click?

Each of the search engines define invalid clicks slightly differently but essentially it is a click to a paid search advert that is not genuine.

2. What causes an invalid click?

Invalid clicks can occur for a number of different reasons including:

- **Accidental manual clicks** – consumer error can lead to a link being clicked twice without any malicious intent. E.g. if a page doesn't load immediately, they may click twice.
- **Intentional manual clicks** – people can click on a link multiple times intentionally to increase the cost to the advertiser.
- **Automated clicks** - by robots, programmes that carryout a single task, in this case clicking on links.

3. How do search engines protect advertisers from invalid clicks?

All search engines have processes in place to protect advertisers from the causes of invalid clicks. These processes are:

- Paid advert areas of the page are able to block robots.
- Every click made to a paid advert is monitored to identify unusual click activity, such as multiple clicks from the same IP address.
- User search patterns are monitored with unusual activity compared against genuine search behaviour.
- Campaign performance data is used to identify invalid clicks.
- On top of the standard systems, all search engines have advanced systems in place to identify unusual patterns. None of the search engines offer information about these systems to maintain their effectiveness.
- Finally, teams are on hand that specialise in invalid clicks to analyse all activity by hand using their own tools and processes.



4. How do invalid clicks affect reporting and billing?

All of the search engines adopt a similar, straightforward and open approach to reporting and billing for invalid clicks. They all report the number of identified invalid clicks to show advertisers and they do not bill for them.

5. What do I do if I have been affected by invalid clicks not identified by the search engine?

There are a number of steps you must follow if you believe you have been affected by invalid clicks when the search engines have not picked them up:

- Check and investigate yourself by analysing the search engine reports and your own logs to identify clicks you feel are invalid.
- Contact the search engine invalid click teams – all search engines have

contact forms within their invalid click information pages (see useful links below) and specialised teams to deal with enquiries.

6. Why can there be a difference between my campaign reports and the search engine's?

Be aware that like all internet measurement systems, a discrepancy can be caused when two systems are employed for reporting. Discrepancy is often caused by the third party server going down while the search engine's is still live or when a user accesses a page that has been cached in their browser.



7. Useful links

Invalid click information

Google's invalid clicks policy

<http://www.google.com/adwords/learningcenter/text/19457.html>

Microsoft adCenter invalid click policy

http://help.live.com/help.aspx?project=adCenter_Content Ads_Beta_ss&mkt=en-gb&querytype=keyword&query=yekdi103

Yahoo!'s click fraud FAQ

http://searchmarketing.yahoo.com/en_GB/trafficquality/faq.php#6

Intellectual property in campaigns

Every search marketing campaign contains a large amount of intellectual property used to establish the campaign, make it successful and to continually improve upon results.

Intellectual property in search is **extremely valuable** and can consist of tangible items like keyword lists used to connect consumers to a page in paid and natural search as well as non-tangible items like an individual's knowledge and experience.

1. What intellectual property is involved in search marketing?
2. Why is it important to be aware of the intellectual property involved in search?
3. How can a search campaign's intellectual property be protected?
4. How do agencies affect intellectual copy in search marketing?
5. What considerations should be made when selecting a new agency?



1. What intellectual property is involved in search marketing?

As discussed above, intellectual property in search is the core component of a search campaign consisting of:

- Keyword lists
- Advert copy / creative lists
- Multimedia specific records (e.g. promotion of video, image and location on maps in search)
- History of campaign (user analytics / click-through and cost trends)
- Campaign structure
- Employee knowledge (unique techniques, trend analysis, campaign evaluation etc.)

Ownership of intellectual property is incredibly important to you as a business and is discussed below.

2. Why is it important to be aware of the intellectual property involved in search?

Be it tangible or non-tangible, the intellectual property of a search campaign is highly valuable. The longer a campaign runs and the more refined it becomes, the more valuable the intellectual property is to your business.

The investment in time and cost for a search campaign can be so high that the loss of key aspects of the intellectual property will have significant implications, mostly irrecoverable.

For instance, a large amount of information can be learnt from two years of consumer click-through data and the trends drawn from it. If this is lost and the campaign manager changes, there is no way of knowing what has been successful or unsuccessful in the past. This will set you back resulting in increased costs and reduced campaign effectiveness.



3. How can a search campaign's intellectual property be protected?

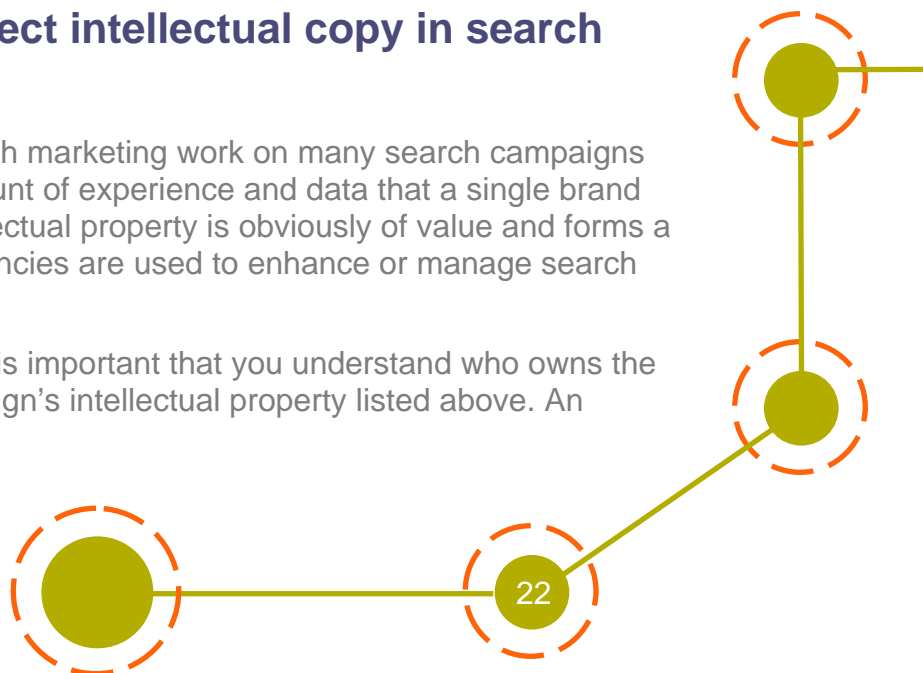
Back-up data! It sounds simple but you'd be amazed by how few companies actually save copies of keyword lists, advert copy, log files for analytics and trends. Like insurance, you're unlikely to need to use it, but if you do you'll be grateful you didn't skip this simple step.

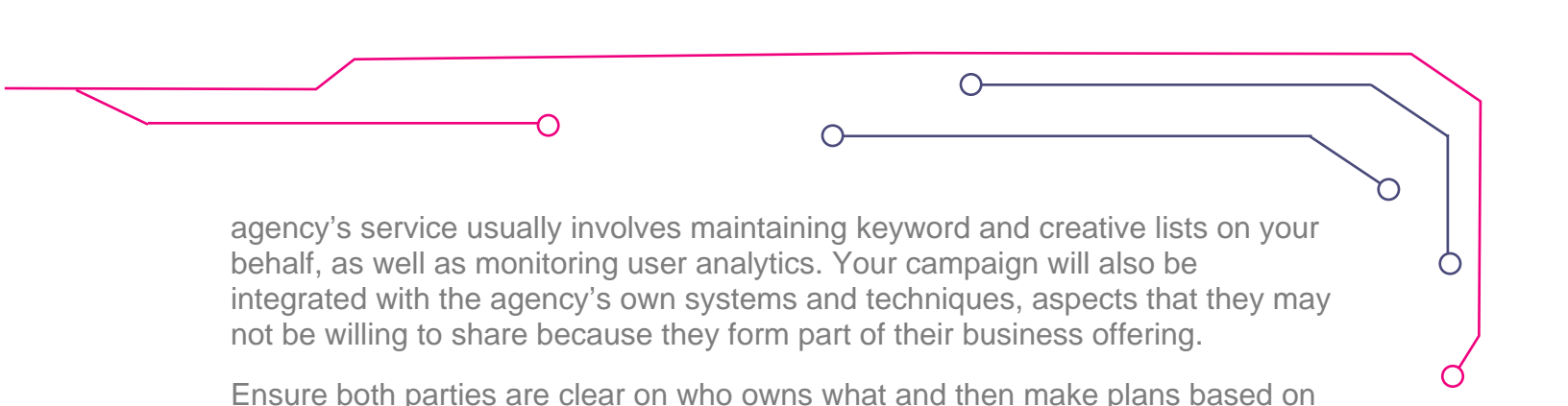
Staff changes happen, make sure an understandable record is made and kept up-to-date. Ensure the campaign structure and history is recorded and attempt to make as much of the individual's knowledge and experience transferable.

4. How do agencies affect intellectual copy in search marketing?

Agencies that specialise in search marketing work on many search campaigns providing them with a large amount of experience and data that a single brand won't have access to. This intellectual property is obviously of value and forms a large part of the reason why agencies are used to enhance or manage search campaigns.

When working with an agency it is important that you understand who owns the core parts of your search campaign's intellectual property listed above. An





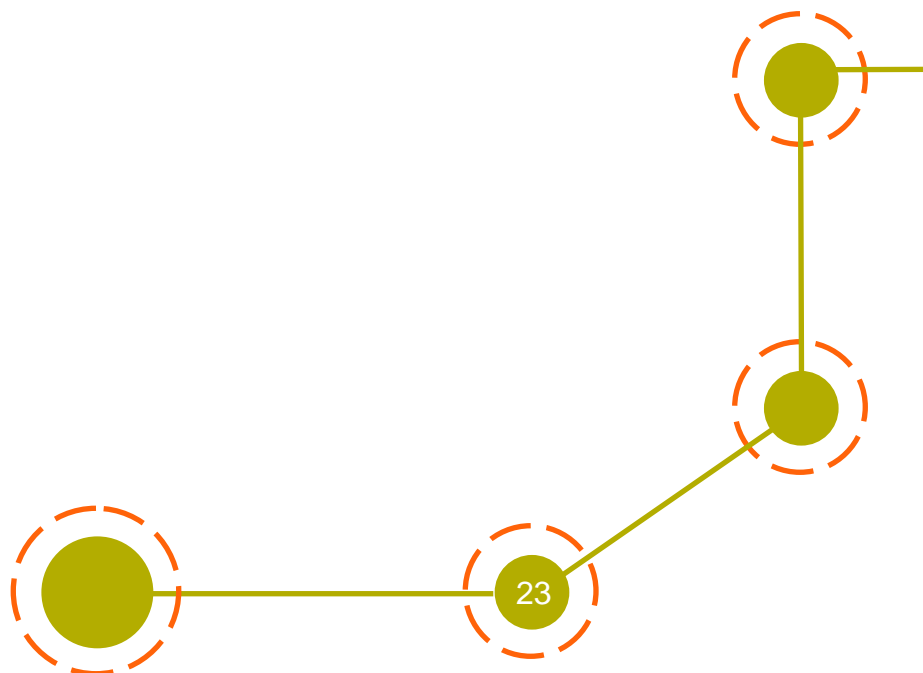
agency's service usually involves maintaining keyword and creative lists on your behalf, as well as monitoring user analytics. Your campaign will also be integrated with the agency's own systems and techniques, aspects that they may not be willing to share because they form part of their business offering.

Ensure both parties are clear on who owns what and then make plans based on this in the event that you have to change agency.

5. What considerations should be made when selecting a new agency?

When negotiating a contract, ask the agency what their policy is for the ownership of intellectual property. Pay particular consideration to a future change in agency bearing in mind that, as discussed above, the history of the campaign is the most valuable aspect to you, the advertiser. You may wish to ask for certain amounts of intellectual property such as the campaign history to be released to you at the end of your contract to pass onto a new agency.

There is no standard policy in this area and it is understandable that agencies may not want to share all of their information with you because they invest great amounts of money into their own processes and knowledge. It is therefore your responsibility to ensure transparency between you and your agency.



IAB Search Council

Thank-you to the representatives from the below companies for your regular contributions to this document, your expertise and advice was invaluable!

Search engines / Search marketing engines

- Google
- Microsoft
- Yahoo! Search Marketing

Clients

- BT

Trade bodies

- DMA

Agencies

- Advertising.com
- BigMouthMedia
- Click Consult
- Doubleclick
- Equimedia
- Guava
- Harvest Digital
- i-Level
- iVantage Limited
- MV Media Group
- Mediacontacts
- OMD
- Steak Media
- VCCP Search
- Web Optimiser
- Zedmedia



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