


Clear and Conspicuous Disclosures:  
What negative options marketers can  
learn from banner ads.

Mariea Grubbs Hoy  
Professor of Advertising

FTC Negative Options Workshop  
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- Banner ads on the top 100 U.S. web sites (July 2005)
- 113 unique banner ads with at least 1 disclosure
- 163 total disclosures
- Advertisers included:

The logo for amazon.com, featuring the text "amazon.com" in a grey, lowercase, sans-serif font with a curved orange arrow underneath.The Microsoft logo, consisting of the word "Microsoft" in white, italicized, sans-serif font on a blue rectangular background.The logo for SWANSON Health Products, featuring the word "SWANSON" in a large, black, serif font, "Health Products" in a smaller, black, sans-serif font below it, and "your!" in a yellow, sans-serif font to the right. Below the main text is the tagline "America's Vitamin Superstore" in a small, black, sans-serif font.The SONY logo, consisting of the word "SONY" in a bold, black, sans-serif font.The MLB.com logo, featuring the text "MLB.com" in white, sans-serif font on a blue rectangular background, with a white silhouette of a baseball player in a batting stance to the right.The EarthLink logo, featuring a stylized orange and black globe icon to the left of the text "EarthLink" in a bold, black, sans-serif font, with the tagline "We revolve around you." in a smaller, orange, sans-serif font below it.The goldpointsplus logo, featuring four small squares (green, yellow, red, and white) to the left of the text "goldpointsplus" in a yellow, sans-serif font.The BED BATH & BEYOND logo, featuring the text "BED BATH & BEYOND" in a bold, blue, sans-serif font.

## Proximity and Placement to Claim

### Mixed Adherence


- All showed disclosure prior to purchase
- Most had claim and disclosure together (proximal) or direct link (immediate)
- **Problem:** 35% still required additional clicks
- **Problem:** only 14.7% required no scrolling

# No Scrolling Required

CLOSE


## Details

### Free Shipping

For a limited time, get free ground shipping on select items. Items that qualify for free ground shipping are identified with this symbol  **Free Shipping**. Offer excludes enhanced shipping options, such as next-day or second-day air. Offer also excludes items displaying the gray "PRINT" button, which are only sold in stores. Delivery area is limited on special delivery and oversize products. Please verify that your shipping address falls within our special delivery area. Best Buy reserves the right to end or change this offer at any time. Offer may vary for orders placed at the in-store i-stations.



## Scrolling Required




<http://www.circuitcity.com/ccd/genericContent.do?oid=112717> [Cart](#) [Order Status](#) [My Account](#) [Help](#)

Just what I needed.<sup>®</sup> [What's New](#) [Services](#) [Outlet](#) [Gift Cards](#) [Shop by Brand](#) [Weekly Ad](#) [Store Locator](#) [Catalog](#)

[TV & Video](#) [Audio / MP3](#) [PCs](#) [Cameras](#) [Car](#) [Home, Office & Phones](#) [Games & Toys](#) [Movies & Music](#)

Free shipping or 24/24 Pickup Guarantee<sup>SM</sup> on orders \$25 & up

 **24 minutes** or **\$24 gift card** **PICKUP GUARANTEE™** [see details](#)

**Full offer details** [Order anytime @ 1-800-843-2489](#)

[Home](#) > [Full offer details](#) [Email a friend](#)

**No interest until January 2008 on TVs \$499 & up**

NO INTEREST UNTIL JANUARY 2008 ON TV PURCHASES OF \$499 AND UP: Minimum monthly payments of \$10.00; 2.5% of the New Balance; or the sum of 1% of the New Balance, total billed periodic rate finance charges, and any billed late and overlimit fees, whichever is greater, are required during the No Interest period. Purchase price must be paid in full by the payment due date stated on your December 2007 billing statement or finance charges will be assessed at the Deferred/Accumulated Finance Charge APR from the date of the purchase. This special financing is offered in connection with the Circuit City Rewards Card. Not all cards available at all locations. Offer subject to credit approval. As of May 18, 2006 the following rates and terms apply for in-store applicants and are subject to change. For New Circuit City Rewards Card accounts: The purchase APR= 23.99% variable or 24%, the Deferred/Accumulated Finance Charge APR= 24.49% variable or 24% and the default and closed account APR= 26.9%, depending on your credit qualifications. APR may vary. Late payment and returned check fee: \$35. Minimum Finance Charge, if assessed, is \$1.00. Customers who have other Circuit City Card products may also take advantage of the special financing offer, as long as you are not in default of your Cardmember Agreement. See your Circuit City Visa or Circuit City cardmember agreement for the rates and fees (other than the special financing terms) applicable to your account. Offer expires 5/27/06. "Get 5% Rewards": You will earn 5% in Rewards points on every purchase made at Circuit City with the Circuit City Rewards Card. If approved for the Circuit City Visa® Card, you'll also earn 1% on Net Purchases made at other retailers where Visa is accepted. You do not earn points on promotional financing purchases, balance transfers, cash advances, any checks that access your account (including those used for purchases at Circuit City stores and circuitcity.com), sales tax, Circuit City gift cards, money orders, finance charges, unauthorized charges, or fees of any kind, including fees for products that protect or insure the balances of your Account.

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**Free TV delivery**

Web-only: free delivery with TV purchases \$499 & up. Applies to standard delivery only. After rebate.

[Shop for TVs](#)

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**DIRECTV® programming**

In some areas, programming may be provided by affiliates of the National Rural Telecommunications Cooperative. In these areas, pricing and programming may differ from that described above. To receive sports and a la carte programming and to order pay per view by remote, a DIRECTV subscription is required (except NFL SUNDAY TICKET and a la carte premium movie channels) and all DIRECTV Receivers must be continuously connected to the same land-based phone line. Most sports subscriptions automatically continue each year at a special renewal rate, provided DIRECTV carries these services, unless customer calls to cancel prior to the start of the season. Commercial locations require an appropriate license agreement. Commercial signal theft is subject to civil and criminal penalties. \$9.97 is allocated to NFL Insider and is nondeductible from your NFL SUNDAY TICKET subscription. Programming, pricing, terms and conditions subject to change. Pricing is residential. Taxes not included. Receipt of DIRECTV programming is subject to the terms of the DIRECTV Customer Agreement; a copy is provided at

## Prominence

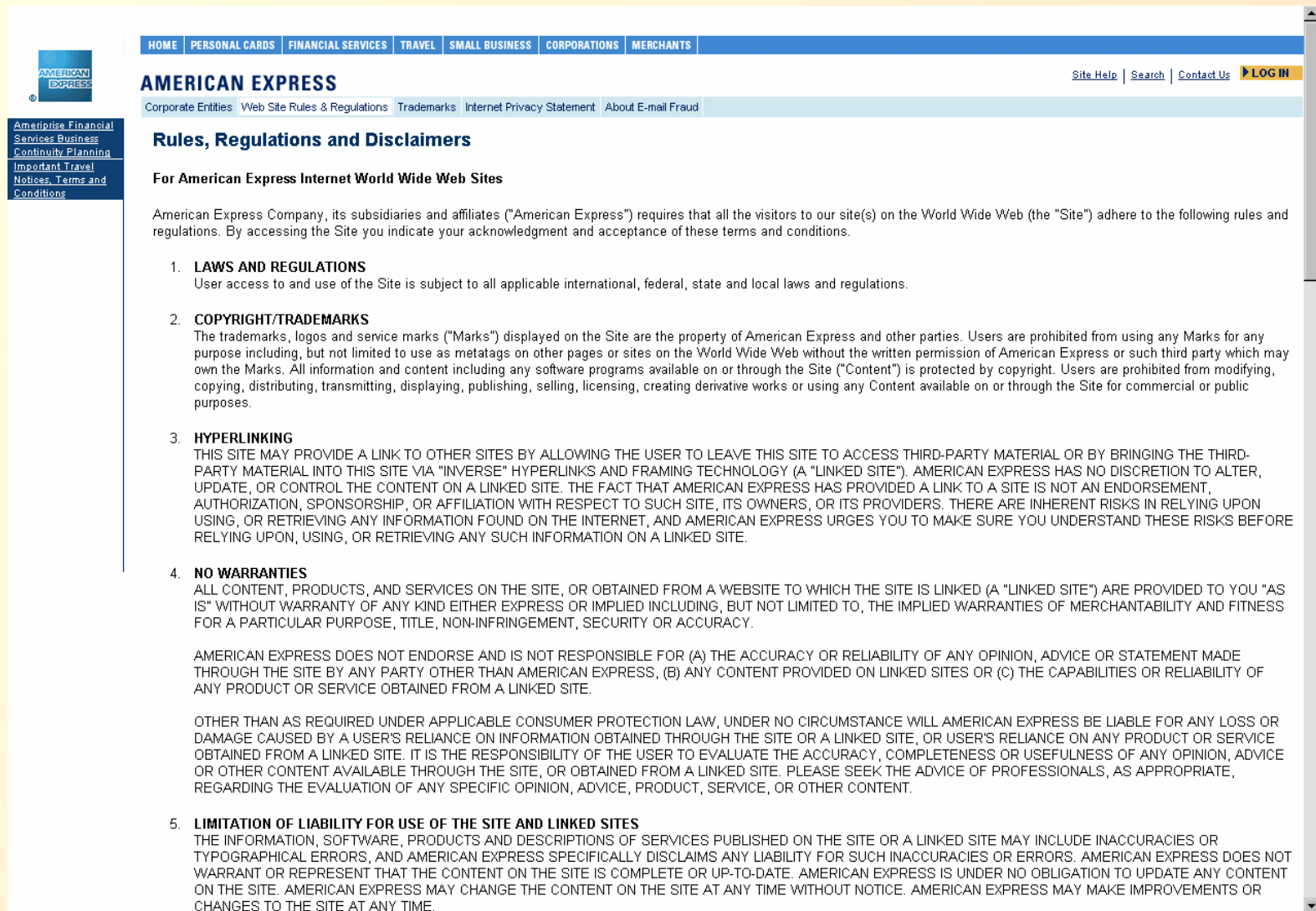
### **Mixed Adherence:**

- Nearly all used a single background color
- Nearly all used a combination of upper/lower case letters
- **Problem:** None were sufficient text size (1/25<sup>th</sup> of screen height)
- **Problem:** 2/3 used “glaring” contrast (black letters on white background)
- **Problem:** Inconsistent cue for disclosure

## Hyperlink Disclosure Cues

- Rules, Regulations and Disclaimers
- Terms and Conditions
- Terms and Conditions of Use and Privacy Policy
- General
- Disclosure
- Disclaimer
- Offer Details
- Important Information
- Fine Print

## Glaring Contrast, Insufficient Text Size, All Caps, "Kitchen Sink" Mega-Disclosure



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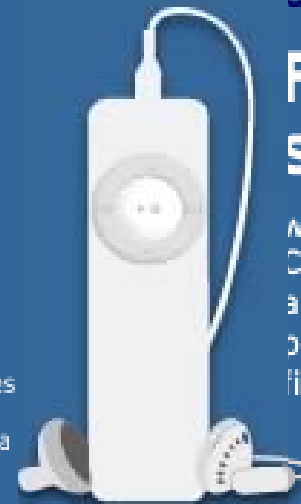
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## Maximum Contrast

### The Citi® Professional<sup>SM</sup> Card with ThankYou Network<sup>SM</sup>

- ▶ **No Fee Rewards Program**
- ▶ **3 ThankYou Points®** for every dollar you spend at restaurants, gas stations, auto rentals, and certain office supply merchants\*\*
- ▶ **0% APR** on balance transfers for 12 months\*  
The 0% APR on balance transfers does not apply to purchases or cash advances. The 0% APR may increase if you default under any Card Agreement you have with us or fail to make a payment to another creditor when due. We apply your payments to low APR balances before higher APR balances.



Special offer:

**FREE iPod®  
shuffle**

when you get a Citi® Professional<sup>SM</sup> Card and make at least \$500 in purchases within the first 3 months.

**APPLY NOW ▶▶**

## Distraction, Repetition & Multimedia

### **Distracting Factors – Modest Adherence**

- Most disclosures had no distraction: animation, blank space, graphics, intervening hyperlinks or text
- **Problem:** intervening hyperlink (30%)

### **Repetition – Minimal Adherence**

- **Problem:** Only a few ads repeat disclosure to ensure it's seen

### **Multimedia Messages**

- All were static text
- No Dual Modality

## Distraction – Intervening Hyperlinks

http://www.circuitcity.com/ccd/genericContent.do?oid=112717

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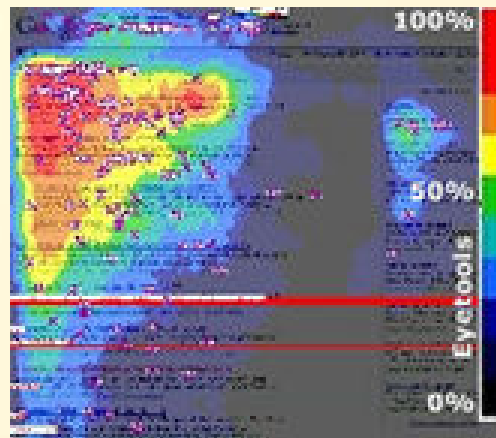
Let's go shop for a TV.

How can the disclosure be more clear and conspicuous?

**Location. Location. Location.**

- Prominent placement:

“Golden Triangle”



Search Results Page

F-shaped pattern



Standard Web Page – with left side and top menus

How can the disclosure be more clear and conspicuous?

**Repetition. Repetition. Repetition.**

- Near offer
- In F-shape pattern/Golden Triangle
- At check-out

How can the disclosure be more clear and conspicuous?

### **Enhance Prominence**

- Sufficient text size
- Maximize contrast with light lettering/dark background -- or at least avoid "glare"
- Provide for user control over font size and lettering/background contrast
- Avoid embedding claim-related disclosure in lengthy "Terms & Conditions" or "Legal Notice"

How can the disclosure be more clear and conspicuous?

## Use Hyperlinks Effectively

If the consumer links to the disclosure:

- Link appears in the F-shaped/Golden Triangle
- Standard term to indicate link to required disclosure

Within the disclosure:

- Limit scrolling - if your disclosure is lengthy, use menu links to key points in F-shaped/Golden Triangle area on disclosure page
- Remove intervening links

And Remember...

If we knew what we were doing, it wouldn't be called Research.

-Albert Einstein



Even a genius recommends that we do our homework to make sure we're getting it right.