LAW AND INTERNET MARKETING IN SERBIA

Ratko IVKOVIĆ[1], Nebojša DENIĆ[2], Nataša KONTREC[2]

[1]Faculty of Technical Sciences, University of Pristina, Kneza Miloša 7, Kosovska Mitrovica, Serbia, ratko.ivkovic@pr.ac.rs
[2]Faculty of sciences and mathematics, University of Pristina, Lole Ribara 29, Kosovska Mitrovica, Serbia, nebojsa.denic@pr.ac.rs, natasa.kontrec@pr.ac.rs

Abstract—The term Internet Marketing in the business and organization of campaigns in Serbia is at the beginning of its development. This paper gives an overview of the current state of this branch of marketing with a special emphasis on IT law. Analyzing marketing communication and application in modern information systems, the paper gives answers about the impact of the same on Internet Marketing. On the other hand, considering the current state of development of the information society in Serbia, as well as the legal aspects in which Internet Marketing is currently underway, will try to explain the current state of this branch of marketing in Serbia.

Keywords— Internet Marketing, Serbia, Internet, Law

I. INTRODUCTION

INNOVATIONS and new technologies are of significant importance for entire Marketing at the moment. New methodologies, plans, actions and also constant development, represent a basis for marketing campaigns, even in theoretical researches. With rapid changes we witness on daily level, a spectrum of new dilemmas on how to synchronize social-humanistic and technical-technological field grows exponentially. Taking into consideration the real importance of information and communications technologies, not only in individual use of modern technologies but in activities of commercial presentation of companies by means of digital marketing as well, analysts reflect on an ever growing number of aspects aiming to define more efficient and effective campaigns.

Expansion of analyses and use of "large amount of data", "smart phones", social networks, results in the usage of modified marketing methods. The reason for this is that the standard marketing methods are not fully applicable in the sphere of digital marketing. Pre-research, trial campaigns and studies on your buyers are preconditions for successful start of today's digital marketing campaign [1]. Also, another common term in related literature is MROCs (marketing research online communities), which unifies all actions before the campaign. Today, the term Digital Marketing is so wide that it includes TV, e-newspapers and e-magazines, radio, web stations and many other channels, therefore the analytics has vast amounts of data on hand, whose detail analysis provides solid foundation for a successful campaign [2].

II. MARKETING COMMUNICATION

Information technologies have manifold effect on marketing. Some methods are better developed and have better basis, while others quickly succumb to change and their character cannot be precisely defined. Today, technological innovations in the field of marketing blur traditional methods of usage of marketing techniques for the most part, particularly in cases where a campaign needs to be deployed on various markets. Assistance of new technologies made the complete strategy approach in digital marketing possible [3].

Computers and Internet have been in use since the 80s and 90s of the past century mostly by governments, large companies and universities. This period was based on processing of data, stored in local databases and entered "manually". The results of database processing mainly depended on regular data entry and amount of data, which was in some cases limited because they originated from a single source only [5]. Today, during the campaign setup, an individual has a wide range of relevant data on hand, and only needs to combine them appropriately in order to establish a relevant campaign. Today's term "Marketing communication" defines contact with concerned individual or a group and further develops communicational channel between organization and a client [6-9].

Fig. 1. The blend of Marketing Communication.

Fig. 1 presents combinations of marketing communication defined through: Advertising, Personal Selling, Public Relations, Direct Marketing and Sales Promotion [10-16]. Social media change the shape of marketing in every aspect of business and encourage new ways of campaign at the same time. Today's organization of social media is fundamentally different compared to those five years ago, and incomparably different in comparison to their beginnings and what Friendster represented as the first social network in 2002.
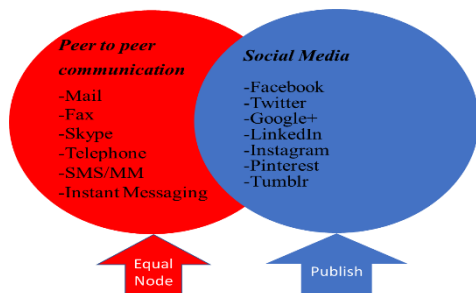
Fig. 2. Defining the Social Media.

The experience says that only 37% of financial assets included in campaigns through digital marketing, not including internet, are here today, in year 2017. In other words, 63% of total funds today in digital marketing are invested in campaigns on different web portals [17-19].

III. INTERNET MARKETING IN SERBIA

Potentials of population with internet access on the territory of the Republic of Serbia need to be defined first. According to data from Ipsos Strategic Marketing company approximately 62% of population in the Republic of Serbia has internet access. However, with regard to younger population in Serbia, as much as 96% of population from 12-27 years of age has access to social networks. This information is very important because almost entire population of this age can be addressed through Internet Marketing [20-22]. On the other side, this also poses a certain risk because these are the most vulnerable groups of population. But the general conclusion regarding this information is that Serbia slowly becomes an informatics society. Looking at it through the prism of social networks in Serbia, there are more than 1.6 million users of Facebook social network, nearly 580.000 users of Google+, 290.000 users of Twitter and nearly 320.000 users of LinkedIn portal [23]. While Facebook, as the largest social network, as expected, has the widest support among Internet users, the popularity of Google+ network can be explained with a large number of users with Google e-mail account [24]. What encourages and leaves positive impression about Serbia as an informatics-business society is a significant number and constant growth of LinkedIn business network members. According to a research carried out by Google (Fig. 1) Serbia holds second place, right behind Russia, and in front of Croatia, regarding the growth of investments in Internet Marketing, with 45% increase in comparison to year 2016 [25]. This information is hardly commendatory because its attests to the fact that this branch of marketing was underdeveloped in our country and that its expansion is ongoing [26-28].

In order to determine the direction that Internet Marketing in Serbia is heading, it is important to take into consideration the areas stressed by the companies that trade in Serbia as the ones where Internet population would have the most appropriate response to promotional materials [29]. The biggest growth in investments in Internet Marketing can be noticed in car industry and trade, amounting to nine times, as described in Figure 4.
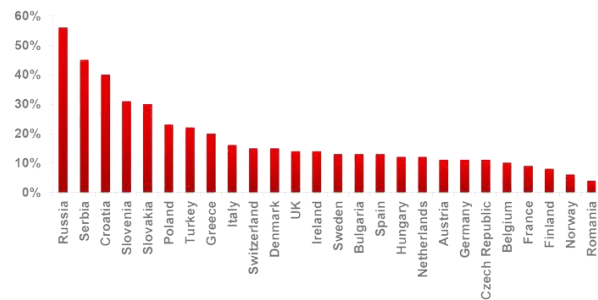

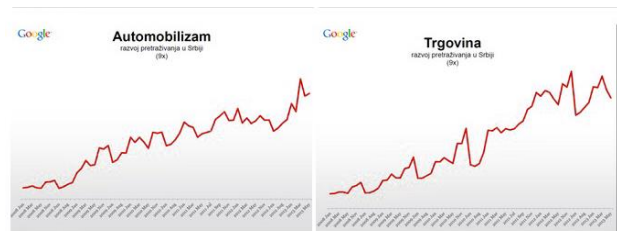Fig. 3. Growth of investments in Internet Marketing globally.

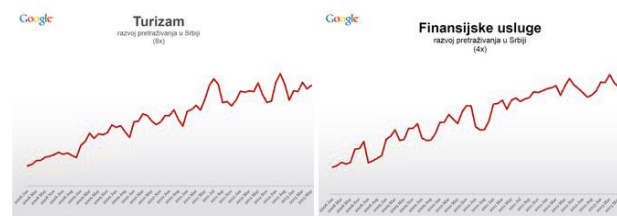Fig. 4. Investment growth in Internet Marketing in sectors of car industry and trade.

Fig. 5. Investment growth in Internet Marketing in sectors of tourism and financial services.

Beside the aforementioned two branches, the biggest investment growth can be noticed in tourism and financial services, amounting to four times, as described in Figure 5 [30-31].

IV. INTERNET MARKETING IN SERBIA

From the perspective of IT law and in relation to the Republic of Serbia, the debate is two-tiered: through substantive law and through examples of practice.

Substantive law includes:
- Legal framework,
- Jurisdiction,
- Constitutional rights,
- Criminal acts,
- E-business,
- Author rights,
- Protection of personal data.

On the other side examples of practice speak of:
- Freedom of speech,
- E-contracts,
- Spam,
- Unsolicited mail,
- Hacking.

As in every other area, the legal framework regulates conducts in specific areas of work. Hence Constitution, Conventions, Laws and Bylaws provide order in functionality of life and business. One of the most

fundamental declarations that business should be based upon is The Universal Declaration of Human Rights, Article 19.

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers".

Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on December 10th ,1948(A/RES/217)

Criminal Code of the Republic of Serbia dedicated only several articles to regulation of IT rights, as follows:

- Article 298: Damaging computer data and programs,
- Article 299: Computer sabotage,
- Article 300: Creating and introducing computer viruses,
- Article 301: Computer fraud,
- Article 302: Unauthorized access to computer, computer network or electronic data processing,
- Article 303: Preventing or restricting access to public computer network,
- Article 304: Unauthorized use of computer or computer network and
- Article 304a: Manufacture, procurement and provision to others of means of committing criminal offences against security of computer data.

One of the examples of practice that stress the difference in interpretation of IT law in our country and abroad, can be seen in the verdict from the case by the Economic Court of Appeals in Belgrade (10236/2011 from April 24th, 2012):

"Argumentation by the legal entity's legal representative that the person involved in electronic correspondence from the official "e-mail" with legal entity's letterhead and accompanying information had no authorization for such action is against fair business practice and principles of good faith, because no entity should sustain damage for communicating in good faith with person authorized by legal entity to use official internet address with company's letterhead, thus the responsible legal entity the employee is employed at should be held responsible for the damage"

V. INTERNET MARKETING IN SERBIA

However, if we examine responsibility for written word, many examples can be found in social networks, Facebook, Twitter etc. We frequently witness prompt reactions by investigative authorities, despite disclaimers that often state: *"Every comment on this profile is satirical and any similarity with real persons and events is merely coincidental"*.

Very important fact that cannot be neglected is ownership of the information that users share on social networks. If we look into the e-contracts that we usually sign with a couple of clicks when we create our profile on a social network, we can see that the user is not really the owner of any information on provided on social networks. In fact, legally-technically, the user only has knowledge of username and password used to gain access to related account, and that is all. The owners of all data on our profiles are companies controlling the social network where we have our account. Which brings us to question: How can a person be held responsible for anything published on his/her account if he/she is not the actual owner of the said account? The answer lies in the e-contract which the user signs when the social network account is being created, where it is clearly stated that, due to ownership rights over the server, the company retains its right to all data stored on it, and complete responsibility for the data remains with the user who accesses the server by using his/her credentials, as described on Figure 6. As described on Figure 6, the social network Facebook collects our data in order to conduct tests, researches and different analyses. In addition, we can take a look into the e-contract of the social network Instagram, for clearer overview of IT rights. Hence, certain parts of contract related to sharing of information are presented herewith:

"Parties with whom we may share your information:

We may share User Content and your information (including but not limited to, information from cookies, log files, device identifiers, location data, and usage data) with businesses that are legally part of the same group of companies that Instagram is part of, or that become part of that group ("Affiliates"). Affiliates may use this information to help provide, understand, and improve the Service (including by providing analytics) and Affiliates' own services (including by providing you with better and more relevant experiences). But these Affiliates will honor the choices you make about who can see your photo.

We also may share your information as well as information from tools like cookies, log files, and device identifiers and location data, with third-party organizations that help us provide the Service to you ("Service Providers"). Our Service Providers will be given access to your information as is reasonably necessary to provide the Service under reasonable confidentiality terms.

We may remove parts of data that can identify you and share anonymized data with other parties. We may also combine your information with other information in a way that it is no longer associated with you and share that aggregated information".

The user's content can also be shared with parties that use the same social network or profiles that enable visibility outside the social network in settings. Another very interesting fact is that, in case of change of control, the social network can sell all users' data as its own property, as stated in the following paragraph:

"If we sell or otherwise transfer part or the whole of Instagram or our assets to another organization (e.g., in the course of a transaction like a merger, acquisition, bankruptcy, dissolution, liquidation), your information such as name and email address, User Content and any other information collected through the Service may be among the items sold or transferred. You will continue to own your User Content. The buyer or transferee will have

in the last year of basic academic studies, however, as discussed in this paper, huge part of population still enters into e-contracts without being fully aware, and the best example are children on social networks.

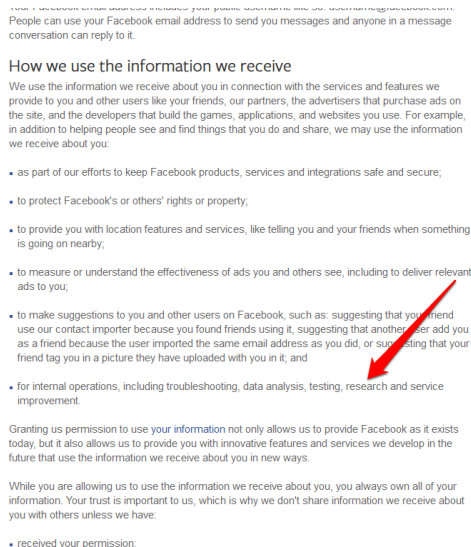*to honor the commitments we have made in this Privacy Policy.*"

Fig. 6. E-contract on opening an account on Facebook social network.

A good indicator of how little the user is related to his/her profile is clearly defined in the paragraph on responding to legal requests and damage prevention, wherein is stated:

"*We may access, preserve and share your information in response to a legal request (like a search warrant, court order or subpoena) if we have a good faith belief that the law requires us to do so. This may include responding to legal requests from jurisdictions outside of the United States where we have a good faith belief that the response is required by law in that jurisdiction, affects users in that jurisdiction, and is consistent with internationally recognized standards. We may also access, preserve and share information when we have a good faith belief it is necessary to: detect, prevent and address fraud and other illegal activity; to protect ourselves, you and others, including as part of investigations; and to prevent death or imminent bodily harm. Information we receive about you may be accessed, processed and retained for an extended period of time when it is the subject of a legal request or obligation, governmental investigation, or investigations concerning possible violations of our terms or policies, or otherwise to prevent harm.*"

VI. CONCLUSION

After all the aforementioned facts, we can safely conclude that by opening an account on any social network, the user becomes the owner of the responsibility over information he/she wants to share, and holder of knowledge pertinent to information required for account accessing (username and password). Implementation of legal regulations changes the Internet as we know it considerably. Most of the users of Internet, social networks inclusive, remain unfamiliar with contracts they sign when they open their accounts, or when they register on different websites. That is exactly why in-depth education on IT law is vital. Some faculties have included this subject, usually

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