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ReedSmith

**MANAGING
IN-HOUSE AGENCY
CREATIVE CONTENT
AND LEGAL CONCERNS**

JULY 2019

TABLE OF CONTENTS

BACKGROUND AND METHODOLOGY	3
KEY FINDINGS	4
1. CREATIVE CONTENT CONCERNS	4
2. LEGAL CONCERNS	10
CONCLUSIONS	13
ABOUT THE STUDY PARTNERS	14

BACKGROUND AND METHODOLOGY

The 2018 ANA report, “[The Continued Rise of the In-House Agency](#),” found that in-house agency penetration is rising and workloads are increasing.

- 78 percent of ANA members have an in-house agency in 2018, versus 58 percent in 2013 and 42 percent in 2008.
- For 90 percent of respondents, the workload of their in-house agency has increased in the past year, including 65 percent for whom the workload has increased “a lot.”

As advertisers continue to expand bringing advertising services in-house, it is important for them to understand and deploy best-in-class practices to manage in-house agency creative content and legal concerns. The ANA partnered with the Boston Consulting Group and Reed Smith on this initiative.

The findings are informed by qualitative interviews with ANA members and industry experts (conducted in first quarter 2019) and a quantitative survey of ANA members (fielded in March 2019). There were 111 survey respondents, and their demographics consist of companies with in-house agencies of various sizes and budgets:

- Staff Size: 40 percent of survey respondents have staffs of 25 people or less, 36 percent between 26 and 100 people, and 24 percent greater than 100 people.
- In-House Agency Budget: 50 percent of survey respondents work at organizations which had an 2018 annual U.S. in-house agency budget (staff and expenses) of less than \$5 million, and 50 percent had \$5 million or more.

Services handled by the in-house agencies of respondents include:

- 91 percent creative for digital media
- 85 percent strategy
- 81 percent creative for traditional media
- 47 percent data/marketing analytics
- 33 percent media planning and/or buying

The complete qualitative survey questionnaire is [here](#).

KEY FINDINGS

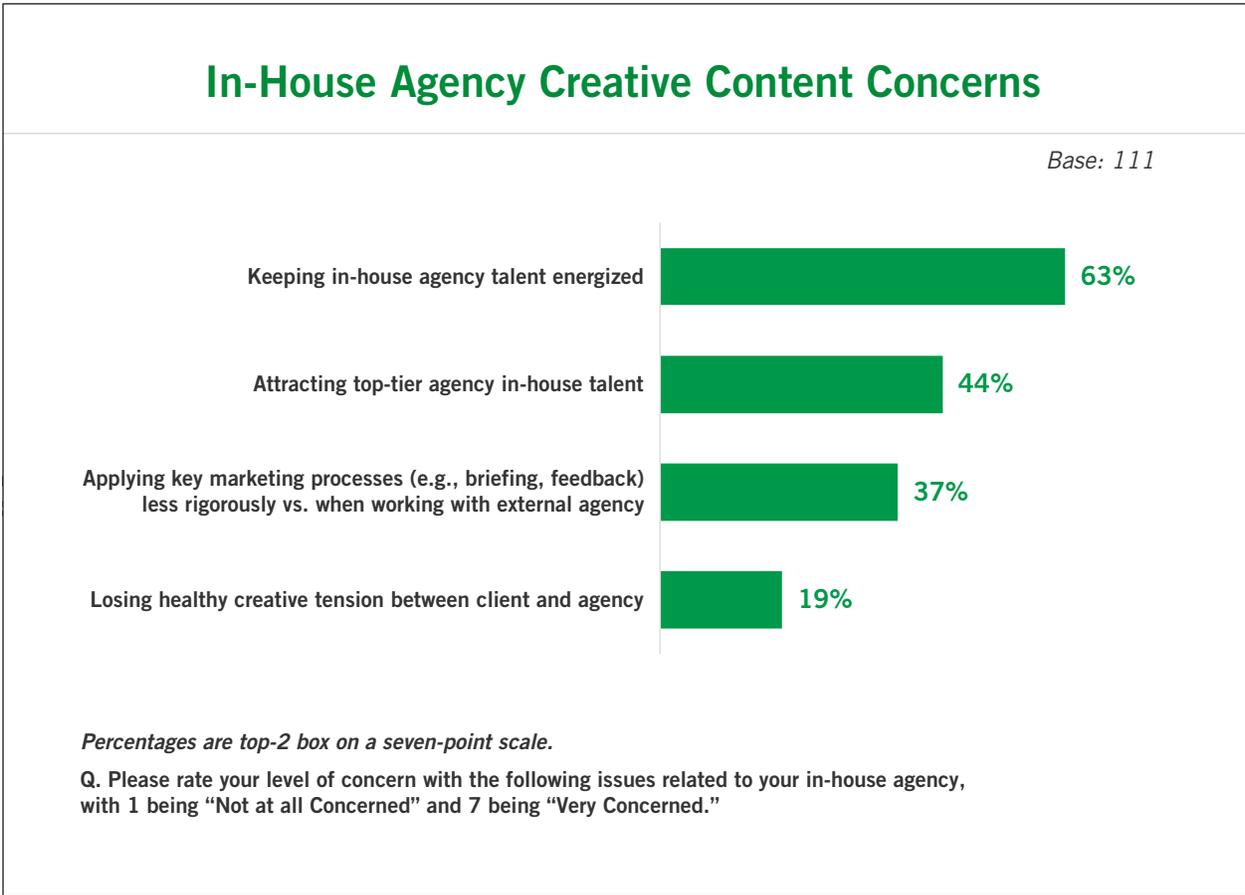
CREATIVE CONTENT CONCERNS

Qualitative interviewees helped identify four primary creative content issues that must be managed by an in-house agency:

- 1. Attracting top-tier in-house agency talent
- 2. Keeping in-house agency talent energized
- 3. Applying key marketing processes
- 4. Having healthy creative tension

The quantitative survey then uncovered different levels of concern (i.e., top-2 box on a seven-point scale) across respondents for these issues.

The top concern was keeping in-house agency talent energized, identified by 63 percent of respondents. Attracting talent was a concern for 44 percent of respondents, while maintaining process discipline concerned 37 percent. Only 19 percent of respondents were concerned about the in-house agency losing healthy creative tension between agency and client.



KEY FINDINGS

CREATIVE CONTENT CONCERNS: MANAGEMENT STRATEGIES

The following takes a closer look at each area of concern and the associated management strategies.

1. Keeping in-house agency talent energized

Once a team is in place, keeping it energized is important.

“It’s critical to keep in-house talent energized. Otherwise attrition can become a real issue.”
— VP/COO, Telecommunications Company

“Keeping our team energized and fresh is a real struggle, in particular as we are not located in NYC or San Francisco.”
— SVP of Advertising and Content, Hospitality and Entertainment Company

To keep in-house agency talent energized, interviewees and survey respondents have deployed a number of strategies:

- Have creative talent work with multiple internal stakeholders/brands to expose creatives to a fresh set of challenges.
- Regularly highlight the work teams are passionate about through employee showcases/mixers so employees can receive recognition and constructive input for their work.
- Challenge internal creative teams with stretch projects. It’s important to share plans with key business stakeholders and put a backup plan in place to ensure that the project will be successfully delivered.
- Provide training workshops to help employees hone their skill sets.
- Invite external speakers and partner agencies to present the latest industry thinking.
- Celebrate successes as a team; communicate them broadly within the company, and encourage leadership to make employees feel valued.

“Want to energize your creative teams? Hire top talent, build in healthy creative tension, show them a higher purpose, and most of all, have fun!”
— Wayne Barringer, Director, Creative Services



“Keeping creative teams energized is critical for retention, but became easier as we grew — now we have more creative assignments, and more variety in those assignments.”
— Michael Perdigao, President,
Advertising and Corporate Communications



KEY FINDINGS

CREATIVE CONTENT CONCERNS: MANAGEMENT STRATEGIES

2. Attracting top-tier in-house agency talent

Attracting top-tier talent is another optimization area for in-house agencies, according to input received from interviewees and survey respondents.

“Getting high-quality people is very hard, as mid-level agency executives are well compensated, so going in-house often requires taking a lower salary and dealing with the monotony of company life, where you focus on fewer things.”

— Senior Director of Marketing, Footwear Company

“Typically, internal creative teams are much smaller than agency teams, which makes it harder to attract talent.”

— Senior Director of Integrated Marketing, CPG Company

“When companies choose to leverage only external teams for the higher-profile, more public campaigns, the top talent isn’t going to want to come in-house. Any great talent you do have is more likely to burn out and leave for more exciting opportunities.”

— VP, Account Management, Financial Services Firm

“There is still a struggle to convince some that in-house has recruited the top talent they get from agencies.”

— Content Writer, Insurance Company

“I believe that when working in-house, more work that is created internally gets produced at a rate that is much higher than at an external agency. The reason for that is the unique proximity the internal team has to the business, to insights, and to leadership. Therefore, the road for an idea to get sold is much shorter.”

— Warren Chase, Vice President and Chief Operations Officer,
140, Verizon’s In-House Agency

verizon✓

KEY FINDINGS

CREATIVE CONTENT CONCERNS: MANAGEMENT STRATEGIES

Respondents have used a number of strategies to attract talent:

- Create a virtual team that helps attract talent in less competitive markets.
 - Creating a virtual team enables you to identify the right talent in the right location while also maintaining a competitive structure.
- Emphasize the attractiveness of the total package during recruitment and be prepared to pay for specialized roles.
 - Job security and hours of an in-house position can be very attractive, especially when coupled with other benefits (e.g. maternity/paternity leave, working remotely).
- Have creative talent cover multiple brands spanning categories.
 - Creative talent is used to tackling different problems across industries, so when coming in-house, having the ability to work across multiple brands/categories can help alleviate the potential concern of focusing on only one brand or category.
- Reinforce that when working internally, the likelihood of efforts coming to fruition with work actually being produced is much higher than at an external agency.
 - According to respondents, in-house projects have a far greater opportunity of having their work be produced, and that can be very attractive to agency executives.
- Branding the agency with active marketing within the company can help with recruiting and maintaining team energy.

"There is strong talent, outside of the well-known creative hubs, that would welcome a big brand opportunity. Bringing these individuals on board and allowing them to work virtually is a very practical way to address local talent shortages. In our case, we hire for talent exclusively, since location really doesn't come into play for PwC's virtual team."

— Jack Teuber, Creative Leader



KEY FINDINGS

CREATIVE CONTENT CONCERNS: MANAGEMENT STRATEGIES

3. Applying key marketing processes

Maintaining process discipline was an opportunity for some interviewees and survey respondents.

“The internal briefing process was unofficial, so our internal team never understood they had to develop multiple equity statements and instead developed a single statement that was deployed in multiple settings.... As a result, the internal team never got a chance to push back and failed to complete the assignment successfully.”

— Director of Marketing Effectiveness, CPG Company

“Treating the internal team as you would an external agency in terms of briefing and reviews is critical.”

— VP, Account Management, Financial Services Firm

Interviewees and survey respondents have deployed a number of strategies to ensure the consistent application of marketing processes.

- For a number of advertisers who realized they faced process gaps when they started their journey of bringing creative services in-house, they used it as an opportunity to refine their processes and then deploy them with both their internal and external agency partners.
- Other advertisers have chosen to deploy the same processes (e.g., briefing, feedback, reviews/evaluations) when working with either internal or external agency partners to ensure that in-house agencies will operate on a level playing field with their external counterparts.

“It’s critical to find a balance where your processes do not stifle the creative process and become too cumbersome. It’s also important that your company celebrates and values the internal agency and the external agency equally; this helps the two teams work together and not compete.”

— Jessica Cipolla-Tario, SVP Advertising and Content



“Building an in-house model does not mean removing all processes, but rather, an opportunity to build something that works better for your organization. The value to our organization is that our in-house team is intimately connected to the brands, product, and teams for whom we deliver work. That connection allows us to approach projects with flexibility, always allowing the project to dictate the process. For us, that often looks like being briefed in the hallway, or it could look like a three-page brief. We are stakeholders in the success of each project, as much as the project owner is, so right-sizing the work to match the project is where we find our best results.”

— Lauren Connley, VP, Global Creative and The Gorilla Way



KEY FINDINGS

CREATIVE CONTENT CONCERNS: MANAGEMENT STRATEGIES

4. Having healthy creative tension

Finally, ensuring creative tension exists was important for some interviewees and survey respondents.

“External agencies only care about the quality of the creative. In a company you need to nurture day-to-day relationships.”

— Brand Director, CPG Company

“Typically, the creative team is small and more junior than the senior marketing leader providing direction, and as a result, senior marketers could exercise too much influence over the creative process.”

— Senior Director of Integrated Marketing, CPG Company

“In practice, it’s very hard for the creative team to push back on the brand team.”

— Global Director of Media and Analytics, Beverage Company

To address this opportunity, interviewees and survey respondents have deployed a number of strategies:

- Hire a diverse set of creative executives. Diversity in this case is defined widely, including age, professional background, ethnicity, and agency experience.
- Leverage external agency partners to co-create/review work. Many companies continue to work with external agency partners after establishing in-house agencies. Leveraging these partners to provide constructive feedback on internal projects has been very helpful for some of our interviewees and survey respondents.
- Pressure-test your perspectives by soliciting input from internal teams and selected third parties. Leveraging the consumer insights, public relations, community relations, and legal teams has been an invaluable tool for a number of companies. Select trusted third parties can also be helpful in this process.

“When a team tackles a creative assignment and tries to make it the best it can be, there will be different — often passionate — opinions, which lead to healthy tension. I think that tension is a sign of a healthy creative environment. When an attitude of ‘it’s good enough’ or ‘it doesn’t really matter to me’ prevails, healthy tension disappears and I start to worry.”

— Greg Sutter, Director, Creative Services



KEY FINDINGS

LEGAL CONCERNS

In addition to the four key creative content concerns that must be managed by an in-house agency, survey respondents were asked about how they manage legal concerns. Working with Reed Smith, the ANA's outside legal counsel, 16 legal concerns were identified as most associated with client-side marketers when they bring work in-house.

Legal issues did not rise to the same level of concern as creative content issues. Most survey respondents felt that while these were all areas of importance, they were already well-addressed by their companies and therefore not areas of great concern. The top four ranked legal concerns — all noted as top-2 box concerns by less than 20 percent of respondents — are:

- Contracting with talent
- Trademark clearance
- Contracting with photographers
- SAG-AFTRA or other union issues

Full rankings on all 16 legal concerns follow.



KEY FINDINGS

LEGAL CONCERNS

Many survey respondents noted that they that work with both internal and external partners to optimize their legal practices.

“We have strong in-house legal counsel and risk management partners, as well as knowledgeable external partners. Please note that ‘very concerned’ does not mean that I think we’re doing it badly. Rather, these are things that are just super important, so we apply a level of care that equals the level of concern.”

— Creative Director at Professional Services Firm

“A critical component of any creative agency is the business affairs group. Having this as an internal capability has made all the difference! We work with an external media buying team which has provided additional flexibility with media publishers and technology providers by allowing us to have one contract with the media buying agency which then handles contracting with individual media partners.”

— VP, Account Management at Financial Services Company

“I’ve marked ‘very concerned’ in my response because they are all things that we need to make sure we do due diligence on. I am not ‘concerned’ that we are not doing it right, but that we need to do our checks and balances before creative goes out the door.”

— Creative Director at Retailer

“We partner with procurement and legal to ensure all requirements are met.”

— AVP, Insurance Company

KEY FINDINGS

LEGAL CONCERNS: MANAGEMENT STRATEGIES

There are processes that need to be put in place to ensure an in-house agency receives best-in-class legal services. Reed Smith recommends the following:

- **Establish an experienced in-house legal team.** Most traditional in-house legal teams are not experienced with reviewing the types of nuanced contracts and legal issues associated with advertising. Ideally, the in-house legal team should have a lawyer with advertising experience or someone in business affairs with an agency background who knows how to spot key issues. Some respondents indicated they have brought in art buyers or experienced production personnel to assist.
- **Develop a legal clearance process.** The legal clearance process can take many shapes and depends on your organization as to how formal the process needs to be. Some respondents indicated they have a formal review board, whereas others have one person who can sign off on advertising.
- **Work with trusted outside partners and know when to use them.** It never hurts to have additional eyes on a project or to have someone outside the organization to consult with. That could be a law firm, consultant, or an outside agency that can be a resource when your core team is out of its element.
- **Create formal agreements and playbooks.** Similar to brand guidelines, a legal playbook sets forth your organization's risk tolerances and what the rules of engagement are, including best practices for negotiating with talent or buying art. This allows your legal team to focus on due diligence and making sure a thorough job has been done vetting the materials.
- **Outsource high-risk, highly specialized areas.** Many in-house agencies outsource high-risk, highly specialized areas, such as commercial production. They've made a conscious decision to outsource certain areas that are more complex.
- **Implement rights management tools.** Have a digital asset management tool to manage and track the rights you have to your assets. Another option is to create all your own assets internally, but that process still requires management.
- **Provide ongoing training.** Just as organizations need to train their staff on internal processes and human resource issues, in-house agency teams need to be trained about legal concerns, such as copyright and trademark issues. That way when the in-house team develops materials, they understand the legal boundaries and issues present.

CONCLUSIONS

Risk is an inherent element of any creative process, but with the application of best-in-class practices, bringing agency services in-house should not be any riskier than using a third-party agency. As one respondent noted: “If the right people are hired with the right competencies and scope of work requirements are clear and agreed to, there should be no more risk to in-sourcing than out-sourcing.”

- Qualitative interviews uncovered four creative content optimization areas: attracting top-tier in-house agency talent, keeping in-house agency talent energized, applying key marketing processes, and having healthy creative tension.
- The quantitative survey then found that the top creative content concern areas are (1) keeping in-house agency talent energized, identified by 63 percent of respondents and (2) attracting top-tier in-house agency talent, identified by 44 percent of respondents (i.e., top-2 box on a seven-point scale). Through our qualitative interviews and quantitative survey, a number of strategies for addressing those creative content areas were identified.
- Legal issues did not rise to the same level of concern as creative content issues. Most survey respondents felt that while legal is an area of importance, the various legal issues were already well-addressed by their in-house agencies and therefore not of unusually high concern. The top four ranked legal concern areas — all identified as top-2 box by less than 20 percent of respondents — are contracting with talent, trademark clearance, contracting with photographers, and SAG-AFTRA or other union issues.

Wherever an in-house agency is in its lifecycle — new, mature, or somewhere in between — the creative content and legal optimization processes recommended in this paper should be of benefit.

ABOUT THE STUDY PARTNERS

ABOUT THE ANA

The ANA (Association of National Advertisers) makes a difference for individuals, brands, and the industry by driving growth, advancing the interests of marketers, and promoting and protecting the well-being of the marketing community. Founded in 1910, the ANA provides leadership that advances marketing excellence and shapes the future of the industry. The ANA's membership includes nearly 2,000 companies with 25,000 brands that engage almost 150,000 industry professionals and collectively spend or support more than \$400 billion in marketing and advertising annually. The membership is comprised of more than 1,100 client-side marketers and more than 800 marketing service provider members, which include leading marketing data science and technology suppliers, ad agencies, law firms, consultants, and vendors. Further enriching the ecosystem is the work of the nonprofit ANA Educational Foundation (AEF), which has the mission of enhancing the understanding of advertising and marketing within the academic and marketing communities.

ABOUT BCG

Boston Consulting Group (BCG) is a global management consulting firm and the world's leading advisor on business strategy. BCG's Marketing, Sales & Pricing Practice works with leading companies that choose to embrace revolutionary opportunities to redefine the future of sales, marketing, and pricing. We help them transform their commercial strategies and achieve organic, customer-centric, double-digit growth while improving marketing and sales efficiency and effectiveness. AI, software, technology stacks, and smarter data are being leveraged to identify the right price and the next best offer, and to convey branding across multiple digital and offline channels. Founded in 1963, BCG is a private company with offices in more than 90 cities in 50 countries.

ABOUT REED SMITH

Reed Smith is a global relationship law firm with more than 1,700 lawyers in 29 offices throughout Europe, the Middle East, Asia, and the United States. Founded in 1877, Reed Smith is a dynamic international law firm dedicated to helping blue-chip clients move their business forward. Its long-standing relationships, international outlook, and collaborative structures make it a go-to partner for speedy resolution of complex disputes, transactions, and regulatory matters. Reed Smith's lawyers provide litigation and other dispute-resolution services in multi-jurisdictional and high-stake matters, deliver regulatory counsel, and execute the full range of strategic domestic and cross-border transactions. Reed Smith is a preeminent advisor to industries including financial services, life sciences, health care, advertising, entertainment and media, shipping and transport, energy and natural resources, real estate, manufacturing and technology, and education.



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