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## The Future of Branding A Whole New World for Branding Strategy

### Introduction

It would be clear to most brands that a whole new branding strategy for creating brand awareness is necessary for a new generation of modern consumers. This article seeks to look at some of the changes in mindset for brands would require, to reach out to the modern Asian consumer.

### The Rise of the Mobile Phone Generation

These are the future consumers and bring with them the shopping habits of a new generation. The younger mobile-phone generation are more well-travelled, have greater exposure to local brands, and are more apt to spread brand awareness through their personal experiences.

### The Appeal of Online Shopping

A new generation, bringing with them a whole new way of shopping. **E-commerce, and more specifically live commerce, have taken over traditional forms of shopping in a very big way.**

### A Changing Shopfront

#### Video is Eating the World

In 2022, 86% of internet traffic was consumed by video streaming. A large proportion is undoubtedly allocated to short videos. They are a perfect fit for our rapidly shrinking attention spans, and many businesses agree. TikTok's viral challenges and Instagram Reels' quick showcases have made short videos a go-to source of entertainment and information, and YouTube introduced its own version with YouTube Shorts and Livestreams. The introduction of short videos and livestreams (Instagram Reels, Facebook Shorts) has even boosted Meta's Q2 financials by a staggering \$10 billion.

#### Video-First Natives

This has rapidly influenced the way the first video-first native consumers think about buying online as well. Live Commerce is rapidly becoming one of the fastest growing mediums for E-commerce buyers to discover new products.

The e-commerce sector in Asia is on a remarkable growth trajectory, with projections indicating an ascent to \$1.89 trillion USD by 2023 from \$1.3 trillion USD in 2019. This equates to an annual growth rate of 9.5%. Such expansion is attributed to the widespread adoption of mobile payment systems, enhancements in internet infrastructure, and a consumer pivot towards online shopping.



Yet, establishing an online presence is just the beginning for businesses aiming to thrive within Asia's dynamic e-commerce scene. **Differentiation and innovation are critical to outpacing rivals.** Businesses can achieve this through the introduction of distinctive, high-quality offerings, stellar customer support, and the integration of technological advancements to enrich the user experience on proprietary digital platforms.

### Video-First Commerce

Incorporating video commerce, or v-commerce, which includes both pre-recorded and live video content, as well as interactive features like virtual try-ons, is a strategy gaining momentum. Particularly, live video shopping is gaining traction across Asia. Platforms such as Grab and iStyle.id, along with brands like Del Monte, are pioneering this approach by facilitating live shopping experiences directly from their digital channels. This strategy not only captivates and engages consumers but also fosters trust and loyalty by showcasing products in a live, interactive format.

### Last Mile Fulfilment and Logistics

The benefits of online shopping in terms of providing access to previously inaccessible locations cannot be underestimated. Consumers who were hitherto constrained because of remote locations with no retail presence, now have the possibility of getting access to such products.

## Using the Law to Protect Brands

So how does all this affect modern branding strategy?

### Increased Ubiquity Means Increased Infringement Risks

The new shopfront is a virtual marketplace.

Whether it is on web sites for advertising and promotional purposes, or on shopping platforms, like Amazon, Shopee, Lazada, Coupang, or on social media platforms, like Instagram, WeChat Store or even when displayed on product reviews, brands are showcased everywhere. Brands are faced with a plethora of choice how to market and promote their brands online.

Alignment of brands with celebrities and influencers through brand endorsement is another popular way of keeping up with current trends.

It's not simply about putting your brand on an online marketplace. You need positioning, meaningful alliances and associations with the relevant persons: in short, a well-thought-out branding strategy.

Increased online visibility is **an essential step to reach out to the modern customer, however, the risks of infringement would also be increased.** The Internet makes it that much easier for infringement to occur.

### Using the Law to Protect Your Brand

Fortunately, the Law is available to provide a solution. **The traditional laws relied upon to protect brands would predominantly be intellectual property laws,** and this is no different for online shopfronts.

The tort of passing off, or the equivalent concept of **unfair competition law in Civil Law countries** would serve to protect unregistered or unregistrable trade marks.

It is perhaps the development of Law of trade marks which is the most decisive protection for protecting brands in an online environment. Several concepts within trade marks law could prove to be helpful in this area:

- Courts have recognised that the unauthorised use of trade marks on a web site can constitute infringement<sup>1</sup>
- The concept that a brand may acquire the status of a **well-known mark**<sup>2</sup> and therefore enjoy certain elevated status and rights.

**Copyright law** would protect logos, designs and artistic works. The Berne Convention for the Protection of Literary and Artistic Works is an international set of laws that **protects copyrighted works from infringement across all the member countries**. Copyright protection could prove to be an **adequate alternative solution** for the protection of artistic and design brands.

As for celebrity endorsements, a **carefully worded contract** would enable fuss-free early termination in case the celebrity gets caught up in any unwanted scandal.

It is appropriate to also mention that online platforms have recognised the importance of protecting brands of products being sold on their platforms<sup>3</sup>. Such terms would be binding contractual terms enforceable by the platforms against errant vendors who sell counterfeit items.

Preventative measures against brand infringement, although a more preferred method of brand protection, remain a challenge for now in the online environment. This may be something for policy makers to consider.

<sup>1</sup> 1-800-Flowers.com, Inc. v. Flowers LLC 11 CV 1038 (DRH)(WDW) (E.D.N.Y. Aug. 17, 2012) is an example of such a case. A more recent decision would be Lifestyle v. Amazon [2022] EWCA Civ. 552

<sup>2</sup> Article 6bis(1) of the Paris Convention

<sup>3</sup> Coupang has in place Anti-counterfeiting guidelines; Lazada's Anti-counterfeit policy is the Alibaba IP Protection Policy Guidebook; and Amazon has its own IP Policy as well.

## The Future



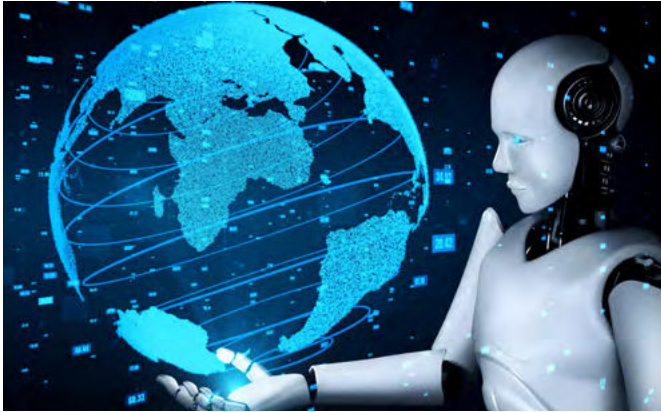
### The Rules have Changed

Branding strategy must evolve, with a stronger focus to appeal to the younger generation, and the opportunity to harness the benefits of the new technological medium should not be missed.

The video-driven growth of the market is accompanied by notable regional disparities. For instance, **China stands out as Asia's preeminent e-commerce powerhouse**, where nearly 50% of retail transactions are conducted online, positioning it as the globe's most advanced e-commerce market. Meanwhile, nations like India and Indonesia are experiencing swift expansions in their e-commerce sectors.

Looking ahead, the e-commerce landscape in Asia is poised for further transformation. A prominent trend is the surge in mobile payment adoption, with services like Grab Pay, GoPay, Alipay, and Paytm gaining traction. Additionally, **the expanding middle class across the region is set to fuel an increased appetite for online shopping**.

In essence, Asia's e-commerce arena offers substantial prospects for businesses ready to evolve and innovate. Companies that can align with video-first native consumer preferences and deliver a frictionless online shopping journey through their standout websites or apps are likely to thrive in this burgeoning market.



The change is inevitable, brands need to innovate to survive and adapt to the changing environment, as the marketplace shifts to an online, digital world. The **advent of new tools using artificial intelligence** presents further options, and consequently, new problems to grapple with.

Brand owners should nonetheless be reassured that even with new and increased risks in the online marketplace, the law is always there to provide remedies and relief for brand misuse.

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