

**ERSP 10 Year Anniversary  
Remarks by Lee Peeler  
5-20-2014**

**Seven Things to Learn About Self-Regulation**

Thanks to all for coming to ERSP's 10 year birthday party!

We have an amazing set of panels today – this is the self-regulatory equivalent of the all star game. The individuals on our panels today all have had major role in birthing, nurturing and guiding the ERSP program into adulthood.

And expanding on the maturing child analogy – special thanks to ERA for paying the tuition!

I wanted to take a minute to provide some thoughts on the lessons learned from ERSP that have application to broader questions of self-regulation in the United States. And ERSP actually gives me an ideal platform to think about these issues – I had the opportunity to serve at the FTC during when there was no self-regulation for the electronic retailing industry, see the creation of the program from the government's standpoint, and then see the actual implementation from the program viewpoint. So, I'd like to throw out seven things I've learned from watching the ERSP program grow up that I am sure our speakers today will elaborate on.

**Number 7:** Self-regulation works. At the time ERSP was created, there were many who were at least skeptical that the advertising self-regulation model would work in the electronic retailing industry and at worst convinced that it could not. The conventional wisdom held that the industry members were too small and too entrepreneurial for self-regulation to work, that companies would just run bad ads and move on when ERSP or the government focused on them.

Those doubters - were wrong.

**Number 6:** Creation of self-regulation requires leadership and courage on the part of the industry leaders. When I was in government, I used to think, "This is a no brainer - just start a self-regulation program." I frankly had no clue about the leadership and consensus-building that goes into creating a credible self-regulatory program, how hard it is to find financial support to create such a program and sustain it through its early years. These are daunting challenges and ERA gets the highest marks for leadership, courage and tenacity in pushing this program through and launching and nurturing it.

**Number 5:** Success requires encouragement and support on the part of the government. Just as industry members don't see self-regulation as one of their principle responsibilities, neither does the government. The government's job is policing the marketplace. The Federal Trade Commission (FTC) is probably unique among government regulatory agencies as recognizing self-regulation as one tool to help it get its own job done. Given the many other challenges to getting a credible self-regulatory program off the ground, the right level of government support and encouragement is a central ingredient. It is the yeast for self-regulatory bread.

**Number 4:** Self-regulation is not a cure-all. One reason many government agencies are reluctant to promote self-regulation more strongly is that it is decidedly not a cure all for problems in the marketplace. Done well, it supplements government activity but does not

replace it. Having both industry and government enter into discussions with the recognition that self-regulation has both value and limits is key to creating a program that will last.

**Number 3:** Self-regulation takes perseverance. Although it is never easy to create and sustain a program, it is obviously a lot easier when there is a crisis. Lots of times you hear, "Sure, they say they will self-regulate now, but they'll stop as soon as the heat goes down." ERA and the ERSP program demonstrate that the electronic retailing industry is in it for the long haul.

**Number 2:** Successful self-regulation provides benefits not only to the supporting industry, but to industry in general. I call this the "Intellectual Capital Bonus."

In 2004, ERA was able to expand on the intellectual capital built by NAD – and steal Peter Marinello, one of NAD's best attorneys – to serve as ERSP's director. In 2014, other industries and programs will be able to borrow from the intellectual capital created by ERSP's success.

Unfortunately, the opposite is also true. Self-regulatory programs that are cosmetic and that do not hold themselves to high standards draw down on the self-regulatory capital others have built.

**And Number 1:** Self-regulation is not about the program, it is about the industry. This is one of the most surprising things I've learned. There is a temptation to look at the self-regulatory program itself as imposing self-regulation on an otherwise reluctant industry, much the way government regulation is imposed.

In fact, self-regulation at ERA and in much of the advertising industry is the opposite. It is successful because it is embraced by the industry. When you hear Jon Congdon speak today or read Jeff Metzger's ERA "SuperAchiever" profile, you see the difference. It takes an industry to make self-regulation work. Electronic Retailing – and those of you in this room today – are that industry.