

## MOUTH OFF

Marketers are increasingly requiring advertising and media agencies to sign complicated and at times onerous confidentiality clauses when pitching for their business. Clients claim this air of secrecy is designed to keep new business pitches quiet and therefore limit the number of enquiries from interested agencies, but really:

## WHAT'S THE POINT OF CONFIDENTIALITY CLAUSES IN NEW BUSINESS PITCHES?

### DARREN WOOLLEY, MANAGING DIRECTOR P3

We use non-disclosure agreements (NDA) with participating agencies for a number of reasons. To protect the interests of the client, as often the client is required to reveal confidential information about their marketing plans or current business operations for the participating agencies to respond to the client's pitch request.

To protect the client from the deluge of requests to be included on the pitch list from agencies that did not make it to the pitch.

To protect the interests of the agencies asked to pitch, as often when the list of agencies is made public, there is a desire by some agencies to achieve a competitive advantage by spreading gossip and rumour about their competition in the pitch.

To protect the integrity of the process by minimising the number of direct contact participants, making the process easier to manage, and all-important communication and feedback more effective by eliminating irrelevant third parties from knowing the details of the pitch.

The non-disclosure agreement we use is one page long, so cannot be considered complicated or onerous. However, we have seen client NDA or confidentiality agreements of up to 12 pages in some cases. Some clients will try and include an assignment of rights clause in a long DNA, which has the assignment copyright in all pitch materials to the advertiser. We think this is both improper and onerous. The client only needs ownership in the copyright if they intend to use the material and have paid a suitable compensation for the rights.

list of potential agencies, sure other agencies can call, but I won't see them unless at the end of the pitch process we haven't appointed an agency.

### PAPINDER HAMID, HEAD OF MARKETING, INSTITUTIONAL & BUSINESS BANKING ST GEORGE

When agencies pitch for a business, no matter how creative they are, the pitch will be only as good as the information given to them by the client. Based on this information the agency will be able to demonstrate their creative flair and strategic thinking to win the business. Imagine what the creative concepts would look like if vital information is left off the brief. As we all know, the output is as good as the brief!

St George is performing very well in a tough and competitive environment. Marketing and advertising plays an essential role in our success, so in this immensely competitive environment we must protect ourselves through confidentiality clauses to avoid important strategic information finding its way to our competitors.

### BROOKE RUSCUKLIĆ, MARKETING & PROMOTIONS DIRECTOR BOOST JUICE

Confidentiality clauses in new business pitches help the company to be far more open with the agency in sharing new business ideas and strategies. In particular, new companies may feel they need extra security over intellectual property, so by implementing a confidentiality clause they're effectively sending a warning shot to agencies to keep it confidential.



"To protect agencies asked to pitch."

Darren Woolley, managing director P3



"I would not ask for confidentiality."

Beverley Johnson, marketing director Jeans West



"We must protect ourselves."

Papinder Hamid, head of marketing, institutional & business banking St George



"Help the company to be far more open."

Brooke Ruscuklic, marketing & promotions director Boost Juice