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ADVERTISING

Billboards and Loopholes

Demand for Space Is Rising; But So Are City Restrictions; How One Company Copes
By Sarah McBride

NEW YORK -- Local laws here generally ban billboards in residential areas. But that hasn't stopped an outdoor advertising company called Van Wagner from plastering hip neighborhoods like Chelsea, Soho and the Meatpacking District with bare-chested pitchmen for Abercrombie & Fitch, dancing iPod users and other immense ads.

The catch: a loophole in the law that allows billboards in areas once zoned for manufacturing -- even though the factories are long gone.

"There are lots of gray areas," says a New York City spokeswoman about billboard laws.



Giant ads for Abercrombie & Fitch (top) and Grand Marnier (bottom) on billboards in Manhattan's Meatpacking District. One neighborhood organizer calls such ads "the size and scale you would see on the New Jersey Turnpike."

Taking advantage of such loopholes has helped Van Wagner build itself from scratch over the last decade into the nation's fourth-biggest billboard business. In many big cities, the company has found legal wiggle room to expand a business that some civic leaders have been trying to tamp down for decades.

In New York, for example -- where billboards are largely restricted to commercial and manufacturing districts -- Van Wagner now owns more than 300 large-format displays intended for viewing from a distance of 50 feet or more. That kind of presence gives its nearest competitors, including **CBS Corp.**'s CBS Outdoor and **Clear Channel Communications Inc.**, a run for their money.

The space is increasingly precious. Outdoor advertising, a \$4 billion industry in 1997, will hit nearly \$7 billion this year. It is growing faster than any other advertising category besides the Internet. Advertisers like billboards because consumers are spending more time on the roads, and billboards are hard to avoid -- there's no way to turn the page or fast-forward through them.

With cities increasingly passing restrictions, the number of large format billboards -- 168,000 nationwide last year -- isn't keeping up with demand. As a result, rents are rising. A large billboard on the Bruckner Expressway in the Bronx or on Tenth Avenue in Manhattan might go for around \$21,000 a month today, compared with about \$10,000 10 years ago.

With economics like that, Richard Schaps, Van Wagner's chairman and chief executive, couldn't resist getting back into the business. A wily former taxi driver with a tattered hack license to prove it, Mr. Schaps had made a name for himself thinking up innovative ways to carve new advertising space from the urban landscape. He founded an earlier outdoor-advertising company, also named Van Wagner, which pioneered much of the iconic advertising in New York's Times Square, such as Nissin's long gone steaming cup of noodles.

In 1997, he sold that company for \$170 million to Outdoor Systems, now part of CBS Outdoor. But instead of retiring to the golf course, Mr. Schaps promptly started building a new outdoor business, with the same name, from scratch.

To rebuild his company and tap into the boom, Mr. Schaps had to think creatively. When New York City relaxed its rules for curbside phone kiosks, at one time dominated by Verizon predecessor Nynex, Mr. Schaps jumped in. He worked with independent phone companies like Telebeam Telecommunications Inc., financing their phone kiosks so he could sell the advertising on the sides. He eventually got the Verizon contract, and now controls some 3,000 Manhattan phone kiosks.

Mr. Schaps also hustled for spaces that other companies had overlooked. Federal government buildings, for example, often are exempt from many city restrictions on billboards. So Mr. Schaps now has a 60-foot-by-20-foot billboard on a post office on Ninth Avenue that rents for about \$20,000 a month.

Van Wagner, which also operates in a handful of other cities including Los Angeles and Washington D.C., says it gets calls almost daily from landlords eager to make extra money by renting out billboard space on their buildings. The vast majority of the time, it doesn't work out, says Mark Johnston, the company's chief operating officer, because of intricate city rules on which districts may sport billboards and how far they must stand from parks, arterial highways

and other sensitive spots. When the company thinks it has a likely spot, staffers experts comb through rules and maps to make sure the board will work, then negotiate with landlords for a billboard lease. Last, they apply for a city permit to put up the board.

Outdoor advertising companies frequently play cat and mouse games with city officials. In California, for example, a state law allows illegally erected billboards that manage to avoid citation for five years or more to stay up unless challenged by state officials in a lengthy, bureaucratic process. Legislation introduced in April is trying to close this loophole. In Los Angeles, some city officials believe that many boards either lack permits or have expanded beyond what their permit allows, for example, standing taller, wider or having two or three faces instead of just one. The city's building and safety department is taking inventory.

One Los Angeles-based company, Regency, repeatedly lands in hot water. On New Year's Eve 2004, a deputy manager for the city of West Hollywood caught company officials, led by co-owner Brian Kennedy, installing a large unpermitted billboard on the Sunset Strip.

Mr. Kennedy says the new billboard, with sturdy steel underpinnings, replaced an older, smaller one that had aging supports. Separately, a former employee testified in court that executives had bragged about poisoning and hacking down trees that blocked views of its boards at Los Angeles International Airport. Mr. Kennedy says a city report exonerated Regency for responsibility over the dead and disfigured trees.



A string of Van Wagner billboards in New York on Seventh Ave. near Penn Station and Macy's.

Mr. Schaps says his company goes out of the way to work within the law, fearing tactics that are too aggressive would sully the reputation of the industry and potentially scare away clients. "It's not the way we should be acting," he says of the industry. At Van Wagner, "we're almost entirely legal."

Still, the company isn't free from controversy. A New York judge recently issued a temporary restraining order against Van Wagner, preventing an ad for a bidet-style contraption that featured bare buttocks from going

up near a church.

And Van Wagner's signs aren't universally loved by neighbors.

Residents of the Meatpacking District have picketed, and restaurants have organized a boycott of the Hotel Gansevoort for renting out space to Van Wagner -- even refusing to take reservations from the hotel's concierge. Andrew Berman, director of the Greenwich Village Society for Historic Preservation, says he cringes every time he walks by them because they are so out of character with the neighborhood. "They're the size and scale you would see on the New Jersey Turnpike," he says.

Van Wagner says the two boards, currently advertising Jaguar XL and Peroni, the Italian beer, are "100% legal."

To help lure in customers, Mr. Schaps invites potential clients into a black Mercedes for a drive that takes in his advertising properties around Manhattan, a tour he calls "riding the boards." (Ever the cabbie, he sometimes drives himself.)

Last year, the company won a \$58 million, 10-year contract to manage 150 New York City Transit Authority billboard displays on properties such as train overpasses and underpasses. The prior year, Van Wagner lost out to Spanish company Cemusa Inc., which won a \$1.4 billion contract to manage city bus shelter advertising. "I don't think I've ever tried harder for anything in my life," says Mr. Schaps. The revamped Van Wagner has revenue of around \$200 million annually.

These days, as cities close loopholes and tighten regulations, Van Wagner executives say it's getting harder to find good spots. That's particularly true in New York, where several billboard companies, but not Van Wagner, are in a protracted court battle with the city over its enforcement of billboard laws. A few years ago, the company put up 15 to 25 new boards each year in Manhattan. These days, it's lucky to find one per year. "We used to say we are looking for needles in a haystack," says Van Wagner's Mr. Johnston. "Now we say there are no needles in the haystack."

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