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Honors and Awards

Winner of the 2010 and 2011
Chambers USA Award for
Excellence

Top-Tier Firm *Legal 500***News**

Two New Partners Join Venable's Advertising, Marketing and New Media Practice

Venable recently announced the arrival of two new partners, **Leonard L. Gordon** and **Bobby N. Turnage, Jr.**, to the firm's advertising practice.

Prior to joining Venable, Gordon was the Regional Director of the Federal Trade Commission's ("FTC") Northeast Regional Office. He managed two dozen enforcement attorneys, investigators and professional staff handling both antitrust and consumer protection matters.

Turnage joins Venable from online services provider Network Solutions LLC, where he served as Senior Vice President and General Counsel. He will advise companies doing business on the Internet who deal daily with critical e-commerce issues such as third-party content liability, protection of intellectual property, online advertising activities, domain name disputes, and data security and privacy.

Over the past six months, more than a half-dozen prominent advertising attorneys have joined Venable's advertising practice, adding to the firm's already market-leading depth on advertising-related regulatory, litigation and transactional matters.

[Click here](#) to read the press release announcing Gordon's arrival at Venable.

[Click here](#) to read the press release announcing Turnage's arrival at Venable.

NAD Refers Supplement Company to FTC

On April 9th, the National Advertising Division of the Council of Better Business Bureaus ("NAD") provided information about marketer Good Health Naturally and advertising for its Serranol dietary supplement to the FTC. Good Health Naturally had failed to provide a statement that it would comply with NAD's recommendations and discontinue many of the advertising claims made for the supplement.

According to a story in *Drug Store News*, the Council for Responsible Nutrition ("CRN") brought the NAD challenge of the product's claims as part of an initiative to expand the review of advertising claims made for dietary supplements. The NAD recommended that the marketer discontinue many of its claims because it did not conduct any studies on the Serranol product itself and because the very studies the marketer submitted were insufficient to support the health claims made for the product.

After the marketer failed to submit a statement that it would comply with NAD's recommendations, the self-regulatory body referred the case to the FTC for further review.

[Click here](#) to read coverage of the case in *Drug Store News*.

FTC Orders Alcoholic Beverage Manufacturers to Provide Data on Alcohol Advertising, Including Internet and Digital Marketing

On April 12th, the FTC announced that it sent compulsory process orders to 14 major alcoholic beverage advertisers this week. The orders require the advertisers to provide information for the agency's fourth



Law Firm of the Year, National Advertising, *U.S. News and World Report*, 2011



For more information about Venable's award-winning Advertising and Marketing practice, please visit our website at www.Venable.com/Advertising-and-Marketing

major study on the effectiveness of voluntary industry guidelines in reducing advertising and marketing by alcohol manufacturers to underage audiences.

This is the first time the FTC has sought information on Internet and digital marketing and data collection practices from alcohol advertisers. In addition to the Internet and digital marketing data, the FTC required the advertisers to supply data on advertising expenditures and placements, as well as background information about the advertisers' business practices.

Previous studies on the effectiveness of the industry's self-regulatory efforts were completed in 1999, 2003, and 2008. Recommendations from past reports have resulted in agreements by the Beer Institute, the Wine Institute, and the Distilled Spirits Council of the United States to adopt a number of guidelines for specific alcohol advertising practices as well as a protocol that enables auditing of advertising practices by outside parties.

[Click here](#) to read the FTC's press release about the orders and the study.

FTC Announces Schedule for Reviewing Regulations

Last week, the FTC announced updates to its 10-year rule review schedule. The FTC has reviewed its rules and guides on a rotating basis since 1992. The review schedule is published each year, with adjustments in response to public input, changes in the marketplace, and resource demands.

In 2012, the FTC plans to initiate reviews on the "Guides for the Rebuilt, Reconditioned and Other Used Automobile Parts Industry," the "Guides for the Jewelry, Precious Metals, and Pewter Industries," and the "Guides for Advertising Allowances and Other Merchandising Payments and Services."

In addition, the FTC will rescind nine rules because the rulemaking authority for those rules was transferred to the Consumer Financial Protection Bureau ("CFPB") under the Dodd-Frank Act. The CFPB has republished those rules, which will still be enforced by the FTC, on an interim final basis.

Due to resource constraints, the FTC announced that it will push back the review of several rules scheduled to be reviewed in 2012. The "Preservation of Consumers' Claims and Defenses Rule" will be reviewed in 2013. The review of the "Guides Against Deceptive Pricing," the "Guides Against Bait Advertising," and the "Guides Concerning Use of the Word 'Free' and Similar Representations" will all be pushed back to 2017.

[Click here](#) to read the FTC's press release about the schedule changes.

Analysis

Groupon Settlement, New Developments in NJ have Implications for Gift Card Sellers

Venable Partner [Melissa Landau Steinman](#) writes in a recent client alert that several important new developments in the gift card industry over the past couple of weeks may have serious implications for companies that sell gift cards and similar instruments in New Jersey and other states.

She writes, "[a]t the end of March and the beginning of April, several of the biggest gift card sellers announced that they would stop selling gift card products in New Jersey on the basis that they could not ensure that third parties would comply with the data collection provisions of the New Jersey stored value card law."

Across the country, In California, Groupon reached an \$8.5 million settlement in multidistrict litigation alleging that the promotions company sold vouchers with unlawful expiration dates, in violation of the law of several states.

Steinman writes that sellers offering gift cards in New Jersey, or that offer "daily deal" vouchers in partnership with Groupon (or run similar promotions), should take note of these developments.

[Click here](#) to read Steinman's alert.

Unfairness Makes Comeback Overseas: Is the US Next?

"Claims that certain types of ads are "unfair" or violate public policy have gained considerable traction overseas in recent months," writes Venable Partner [Gary D. Hailey](#) in a recent post on Venable's advertising law blog, www.allaboutadvertisinglaw.com.

He points out that the FTC Act prohibits unfair as well as deceptive acts or practices. He writes, "[a]n act or practice is 'unfair' if it causes or is likely to cause substantial consumer injury, the injury is not reasonably avoidable by consumers, and the injury is not offset by countervailing benefits to consumers or competition." With all of the recent overseas attention that "unfair" advertising rulings have attracted, he writes, advertisers in the United States may want to brush up on the concepts of "unfair" and "deceptive" when it comes to advertising.

[Click here](#) to read Hailey's post on Venable's advertising law blog, www.allaboutadvertisinglaw.com.

FTC Blog Illustrates Lessons of Last Week's "Bottom-Dollar" Enforcement Actions for Legitimate Businesses

A post this week to the Business Center Blog published by the FTC's Bureau of Consumer Protection points out useful lessons that businesses of all shapes and sizes can take away from last week's five enforcement actions against so-called "bottom-dollar scams," which target vulnerable consumers.

"It is the conduct, not the characteristics of the company, that counts," writes the FTC's Leslie Fair in the post. She adds that the FTC takes action against both large, established companies and fly-by-night operations, and that FTC complaint allegations offer useful guidance for all types of companies on where the agency draws the line.

[Click here](#) to read Fair's blog post.

Events

[AGMA Americans Second Quarter Conference - Sonoma, CA](#)

April 18, 2012

Please join Venable partner [Justin E. Pierce](#) when he presents "[Efficient Management of Brand Protection Resources](#)." To register, please [click here](#).

[Toxics Regulation for Retailers and Consumer Products Manufacturers - Los Angeles](#)

April 24, 2012

Please join Venable partner [Randal M. Shaheen](#) when he presents "[Setting up an Effective Sustainability Marketing Program and Avoiding Greenwashing Claims](#)." Shaheen will provide an update on recent regulations, case law, regulatory initiatives, compliance and marketing issues to assist attorneys, corporate management, risk managers, insurance professionals and governmental representatives. The presentation starts at 1:15 (PDT) and will take place at the Radisson Hotel at Los Angeles Airport.

[FDLI 55th Annual Conference - Washington, D.C.](#)

April 24-25, 2012

Venable partner [Ralph S. Tyler](#) will participate in the Former FDA Chief Counsels Roundtable, and [Todd A. Harrison](#) will join a panel titled "Functional Foods: How Foods, Dietary Supplements and Pharmaceuticals Are Becoming Increasingly Intertwined."

[ACC Quick Hit: "New Developments in Mobile Privacy"](#)

May 3, 2012, 12 pm EDT

As mobile device usage explodes, mobile privacy has become a focus of media and regulatory attention. The California Attorney General, Federal Trade Commission and industry groups have all recently weighed in on mobile privacy. What's behind the headlines? Please join Venable attorney [Julia Tama](#), who will review new developments, including the Digital Advertising Alliance's mobile initiative, to help you

get your bearings in this evolving legal landscape.

ACC members may sign up for this teleconference at [ACC's website](#). If you are not an ACC member and wish to participate, please contact: Paul Goatley, Legal Resources Coordinator, at goatley@acc.com and mention Venable to receive an invitation to participate.

New York City Bar Center for CLE

May 4, 2012

Please join Venable partner [Melissa Landau Steinman](#) when she presents "[Sweepstakes, Promotions and Marketing Laws: Comprehension & Compliance](#)" on Friday, May 4, 2012 from 9:00 a.m. to 12:30 p.m. EDT. Topics to be discussed include the laws governing sweepstakes and skill contests, social media, mobile marketing, drafting official rules and disclosures, use of intellectual property, and the gift-card/coupon interface.

ERA'S Government Affairs Fly-In 2012 - Washington DC

May 7-8, 2012

Please join Venable at the Electronic Retailing Association's 2012 Government Affairs Fly-In. The event, which takes place in Washington, DC from May 7-8, is an outstanding opportunity to learn more about the regulatory and legislative efforts affecting the electronic retailing industry and to meet with lawmakers and senior agency officials. Venable's [Jeffrey D. Knowles](#) will be among the dozen senior-level speakers from Capitol Hill, federal regulators, industry self-regulatory bodies, policy think tanks and the electronic retailing industry during this important two-day event.

Response Expo 2012 - San Diego CA

May 15-17, 2012

Please join Venable at the Response Expo 2012. The event, which takes place in San Diego, CA from May 15-17, brings together key decisionmakers and industry leaders from the corporate marketing arena and direct response spectrum. Please stop by our booth and meet Venable's [Advertising and Marketing](#) attorneys. Venable is the proud sponsor of the Martini Party networking event, which will occur on May 16 from 4:30 p.m. - 6:00 p.m.

ACI Litigating & Resolving Advertising Disputes - New York

June 19-20, 2012

Venable is a proud sponsor of the ACI Litigation & Resolving Advertising Disputes Conference. Please join Venable's [Thomas E. Gilbertsen](#) and [Amy Ralph Mudge](#). Gilbertsen will speak on the explosion of class action lawsuits and Mudge will moderate a panel of judges providing the judicial perspective on advertising litigation.

[Click here](#) to subscribe to Venable's Advertising and Marketing RSS feed and receive the Venable team's insight and analysis as soon as it is posted.

Visit Venable's advertising law blog at www.allaboutadvertisinglaw.com.

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