



June 28, 2012

Issue Editors**Jeffrey D. Knowles**

jdknowles@Venable.com

202.344.4860

Roger A. Colaizzi

racolaizzi@Venable.com

202.344.8051

Gary D. Hailey

gdhailey@Venable.com

202.344.4997

Gregory J. Sater

gjsater@Venable.com

310.229.0377

In This Issue**Jeffrey D. Knowles**

jdknowles@Venable.com

202.344.4860

David G. Adams

dgradams@Venable.com

202.344.8014

Randal M. Shaheen

rmshaheen@Venable.com

202.344.4488

Jonathan L. Pompan

jlpompan@Venable.com

202.344.4383

Honors and AwardsTop ranked in *Chambers USA*

2012



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

News**CFPB Sends Report on Reverse Mortgages to Congress**

On June 28, the Consumer Financial Protection Bureau (CFPB) published a "Report to Congress" about the reverse mortgage industry. A reverse mortgage is a type of home loan that gives older homeowners immediate access to the equity they have built in their homes and allows them to defer payment of the loan until they pass away or sell or move out of the home. While reverse mortgages do not require monthly mortgage payments, borrowers must still pay property taxes and homeowner's insurance.

The 231-page report examines the complexity of reverse mortgages, the evolution of the ways that consumers use and understand reverse mortgage products, risks caused by "misleading" advertising and whether and how the regulations governing reverse mortgages should be strengthened.

In addition to the report, the CFPB plans to solicit public comments on reverse mortgage products and the operation of the reverse mortgage industry.

[Click here](#) to read the CFPB's blog post about the report and to access copies of the report and the Request for Information.

Facebook Becomes Seventh Signatory to California's Joint Statement of Principles

Last week, California Attorney General Kamala D. Harris announced that Facebook became the seventh company to sign the Joint Statement of Principles. This agreement is intended to strengthen privacy protections for consumers around the world who use online applications on smartphones, tablets and other electronic devices. The agreement effectively extends California's privacy protections beyond mobile apps to include social apps in Facebook's App Center.

The Joint Statement is intended to ensure that emerging online technologies such as mobile apps comply with California's Online Privacy Protection Act. Among other things, the Act requires the companies whose online operations collect personally identifiable information to post a privacy policy in a conspicuous location.

In addition to signing the Joint Statement, Facebook will participate in a mobile privacy practices advisory group convened by the Attorney General's Office and the California Office of Privacy Protection.

[Click here](#) to read the Attorney General's press release and to access related documents.

FDA Receives Approval to Study Direct-to-Consumer Prescription Drug Marketing

The June 27, 2012 edition of the *Federal Register* contained a notice that the Food and Drug Administration (FDA) has received approval from the Office of Management and Budget to study the effect of promotional offers on direct-to-consumer marketing of prescription drugs.



Top-Tier Firm *Legal 500*, 2012



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

According to a September 2010 *Federal Register* notice about the proposal, the FDA is interested in studying whether and how various promotional offers in direct-to-consumer advertisements for prescription drugs affect consumers' perceptions of product risks and benefits. In the notice, the FDA makes it clear that its intent is only to study the effects of such advertising on the marketplace and not to create new pricing- or promotion-related regulations. The FDA also points out that its authority to regulate advertising extends only to advertisements that are false or misleading. The Federal Food, Drug and Cosmetic Act does not give the FDA the authority to regulate the pricing of prescription drugs, including price incentives, rebate offers or other inducements.

[Click here](#) to read the June 27, 2012 *Federal Register* notice.

[Click here](#) to read the September 2010 *Federal Register* notice.

Analysis

UK's ASA Addresses Twitter Advertising Disclosures

Alex Watt, a senior attorney at United Kingdom law firm Redd Solicitors LLP, analyzes a recent decision by the UK's Advertising Standards Authority (ASA) regarding Twitter advertising disclosures in a guest post to Venable's advertising law blog, www.allaboutadvertisinglaw.com.

Watt writes that, in the UK and the United States, the discussion over how and why to disclose tweets that celebrities and others make in exchange for compensation from advertisers is a hot topic. His post focuses on a recent complaint brought to the ASA, an industry self-regulatory body similar to the National Advertising Division of the Council of Better Business Bureaus in the United States, regarding two tweets posted in January 2012 to the official Twitter accounts of the Nike-sponsored soccer players Wayne Rooney and Jack Wilshere.

The complainant questioned whether the tweets were obviously identifiable as marketing communications. The tweets read "My resolution - to start the year as a champion, and finish it as a champion...#makeitcount gonike.me/makeitcount" (for Wayne Rooney) and "In 2012, I will come back for my club - and be ready for my country. #makeitcount.gonike.me /makeitcount" (for Jack Wilshere).

Despite the use of the Nike URL and campaign tag line, the ASA determined that the use of "Nike" was, as Watt writes, "not sufficiently prominent, and consumers would not have been aware of Nike's 'make it count' campaign." The ASA suggested the inclusion of "#ad" in sponsored tweets so that consumers can clearly identify them as marketing communications.

[Click here](#) to read Watt's full post on www.allaboutadvertisinglaw.com. The post also contains a link to the full ASA decision in the case.

Upcoming Events

[Engredea Asia Market Quickstart - Shanghai and Xi'an, China](#)

June 29-30 and July 3-4, 2012

Developed by Engredea, the Market Quickstart is a teaching program that helps companies in the healthy and natural products industry prepare for international business, especially in the United States. Venable partner [Claudia A. Lewis-Eng](#) will address the attendees in Shanghai and Xi'an.

[The American Bar Association Section of Antitrust Law](#)

July 11, 2012

The CFPB has begun work in earnest with regard to investigations and has announced a set of proposed procedural rules. Please join Venable partner [Randal M. Shaheen](#) and Venable of counsel [Jonathan L. Pompan](#) as they, as well as representatives from the FTC and the CFPB, present a webinar entitled "Consumer Financial Protection Bureau Investigations and FTC Coordination Tips and Techniques" on July 11, 2012 at 3:00 p.m. EDT.

For more information, please [click here](#).

[LeadsCon East 2012 - New York](#)

July 24-25, 2012

LeadsCon is the pioneering conference and summit for the online lead generation and broader customer acquisition industry. Venable of counsel [Jonathan L. Pompan](#) will moderate a discussion entitled "Co-

reg, Destination Sites, and Up-sells, 'Oh My!'" on Wednesday, July 25 from 11:30 a.m. - 12:00 p.m. EDT. A panel of leading advertisers will discuss the challenges of online and telephonic lead generation.

For registration information, please [click here](#).

15th Annual NBJ Summit - Dana Point, CA

July 24-27, 2012

Venable is a proud sponsor of the 2012 NBJ Summit, hosted by *Nutrition Business Journal* and New Hope Natural Media. Please join Venable partner **Jeffrey D. Knowles** and Venable partner and former FDA Chief Counsel **Ralph S. Tyler** on Friday, July 27 at 9:15 - 11:40 a.m. PDT. Their session and panel discussion will provide insiders' views of regulatory activity by the FDA and FTC as well as predictions for the future.

3rd Annual DRMA Summer Bash - Irvine, CA

July 26, 2012

Venable is a proud sponsor of the Direct Response Marketing Alliance's Summer Bash. Join the attorneys of Venable's **Advertising and Marketing Group** for an evening of wine tasting and networking, held at the Shady Canyon Country Club in Irvine, CA.

American Bar Association Annual Meeting - Chicago

August 2-7, 2012

Venable's attorneys will be presenting sessions at this conference, which provides top-notch continuing education to the nation's lawyers. Please join Venable partner **Ralph S. Tyler** as he presents "Overriding the Experts: Executive Rejection of Administrative Agency Expertise." Also, Venable partner **Amy Ralph Mudge** will moderate a panel discussion titled "Government Cases and Class Actions: Making and Breaking the Links."

2012 Electronic Retailing Association D2C Convention - Las Vegas

September 11-13, 2012

Venable is a proud sponsor of the ERA D2C Convention. The ERA is the only trade association in the U.S. and internationally that represents leaders of the direct-to-consumer marketplace, which includes members that maximize revenues through direct-to-consumer marketing on television, online, mobile and on radio. Please visit the attorneys of our **Advertising and Marketing Group** at booth #915.

Two Venable attorneys are presenting educational sessions at ERA D2C. Join Venable partner **Jeffrey D. Knowles** as he presents "Driving Change in Electronic Retailing: Enforcement, Self-Regulation and Legislation." Venable partner **Gregory J. Sater** will moderate a panel entitled "Riding the Social Media Roller Coaster."

To obtain a complimentary exhibitor-hall pass that will allow you to attend the expo as a guest of Venable, please click [here](#) and register, using the code **VBND3607**.

[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.

CALIFORNIA MARYLAND NEW YORK VIRGINIA WASHINGTON, DC

1.888.VENABLE | www.Venable.com

© 2012 Venable LLP. This alert is published by the law firm Venable LLP. It is not intended to provide legal advice or opinion. Such advice may only be given when related to specific fact situations that Venable has accepted an engagement as counsel to address. ATTORNEY ADVERTISING.

575 7th Street, NW, Washington, DC 20004

© 2012 Venable LLP | www.Venable.com | 1.888.VENABLE