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**Honors and Awards**

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**News**

## ANA CEO Calls for Greater Industry Cooperation, Self-Regulation to Win Policy Battles

"If we don't win in Washington, nothing else matters," the Association of National Advertisers' (ANA) president and CEO, Bob Liodice, told the audience at the ANA's annual policy conference this week, according to an *ADWEEK* story.

Liodice pointed to the ad industry's positive economic effect, generating \$6 trillion of economic activity and 15 percent of employment. However, the story says, he pointed out that the industry has recently been on the defense when it comes to obesity and consumer privacy issues. In both instances, Liodice praised the industry's self-regulatory programs for creating solutions that addressed the concerns of both consumers and the advertising industry.

[Click here](#) to read the full text of the *ADWEEK* story and learn in which areas Liodice believes the advertising industry and government must collaborate.

**Analysis**

## Price Match Guarantees – Easy to Offer, Hard to Limit

In a recent post to Venable's advertising law blog, [www.allaboutadvertisinglaw.com](http://www.allaboutadvertisinglaw.com), Venable partners **Amy Ralph Mudge** and **Randal M. Shaheen** write of a rare consumer challenge at the BBB's National Advertising Division (NAD).

A shopper looking for a bargain at Toys "R" Us wanted to take advantage of the price guarantee prominently displayed on signs in-store stating "Price Match Guarantee - Spot a lower advertised price? We'll match it. See a Team Member for details." He brought a dice game to the counter with an Internet search showing a lower price, and was reportedly told the only acceptable benchmarks were prices from Best Buy or [www.toysrus.com](http://www.toysrus.com). Then he left, bought the dice game elsewhere, and complained to NAD.

The retailer, Mudge and Shaheen write, explained that, had the customer spoken to a manager, he would have still been denied the price break but been told the right policy – that the appropriate benchmarks were prices in any competing brick and mortar store or at [www.toysrus.com](http://www.toysrus.com).

While NAD conceded some points to the retailer, it also reiterated a point it has made in prior cases that reasonable consumers would expect such a program to have additional terms and conditions. That said, it concluded that a reasonable takeaway from the claim that the retailer would match if a customer "spot[ted] a lower advertised price" is that the customer would expect this to include prices on competing websites. NAD recommended that the broad claim be discontinued or that it be revised to make clear that, for toys, the match was limited to competitive in-store price ads.

[Click here](#) to read the full text of the blog post by Mudge and Shaheen and learn why price guarantees must be advertised carefully.

## Some States Eye Advertisers to Generate Tax Revenues



Law Firm of the Year, National Advertising, *U.S. News and World Report*, 2011-2012



Top-Tier Firm *Legal 500*



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

There is one list advertisers do not want to join, writes Venable partner [Walter R. Calvert](#) in a recent post to Venable's advertising law blog, and that is the ever-growing list of services subject to state sales and use taxes. Several states, Calvert writes, including Minnesota, Ohio, and Louisiana, are actively considering adding advertising to their lists of taxable services.

As state and local governments feel constant pressure to keep their budgets balanced, periodically revisiting the taxation of additional services is an oft-favored option. The disadvantages of such taxation are clear to service providers: the cost of providing services to customers instantly increases by four percent, five percent, or more, while the business realizes none of the resulting revenue. At the same time, the business is saddled with the costs of compliance with state and local sales tax collection and remittance obligations.

One example of this trend is Louisiana Governor Bobby Jindal's recently released budget. His budget proposes eliminating that state's income tax and offsetting the resulting revenue loss through the addition of personal, professional, and other services to the state's sales tax base. While the expanded scope of the tax would generally sweep in advertising services, the Governor's press release of March 14 states that the purchase of advertisements ("buys") would be excluded from the tax base.

[Click here](#) to read the full text of Calvert's post on Venable's advertising law blog, [www.allaboutadvertisinglaw.com](http://www.allaboutadvertisinglaw.com).

[Click here](#) to read coverage of the proposed state taxation changes in *Ad Age*.

## FTC Puts Muscle Behind Fitness Consent Decrees

Over the past few years, a flurry of consent decrees have articulated the new level of substantiation that the Federal Trade Commission (FTC) requires marketers to produce, especially in support of products making wellness, weight-loss, or toning/slimming claims. By many accounts, the FTC has set the bar high -- even for companies selling legitimate products to largely satisfied consumers, writes Venable partner [Gregory J. Sater](#) in the March edition of *Electronic Retailer* magazine, and cases have run the gamut from ingestible supplements and exercise equipment to footwear and cosmetics.

While these consent decrees bind only the companies that entered into those agreements, the FTC often uses consent decrees to send a message about certain marketing practices to the industry. Accordingly, Sater writes, marketers should not ignore the provisions of FTC consent decrees -- especially when making similar claims or marketing products similar to those covered by a decree -- and marketers should expect the substantiation push to continue in 2013.

[Click here](#) to read the full text of Sater's column and learn about some of the conditions the FTC has required in fitness-related consent decrees.

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## Upcoming Events

### Response Expo - San Diego

April 2-4, 2013

Please join Venable at the Response Expo 2013, which brings together key decisionmakers and industry leaders from the corporate marketing arena and direct response spectrum. Please stop by booth #212 and meet Venable's [Advertising and Marketing attorneys](#). Venable is the proud sponsor of the Tiki Party networking event, which will occur on April 3 from 4:30 - 6:00 p.m.

To receive a free Expo Hall badge to attend Response Expo, [click here](#) and enter the promo code SOCAL13.

### ad:tech - San Francisco

April 9-10, 2013

ad:tech spans the full ecosystem of advertising, digital marketing and technology that moves business forward. Please join Venable attorneys at our booth on the show floor, #2551.

To schedule a meeting with one of our attorneys, please [click here](#).

To register, please [click here](#).

**Children's Advertising Review Unit's 3rd Annual Children's Advertising & Online Privacy Conference - Beverly Hills, CA**

April 10, 2013

Hear experts provide a timely and in-depth review of the legal and practical mobile challenges posed by implementing the FTC's new Children's Privacy regulations as they apply to apps, social media, websites and more. Venable partner **Gregory J. Sater** will join officials from the FTC and CARU to present "Claim Substantiation: It's Not Just For Adults Anymore."

[Click here](#) to register.

**American Bar Association 2013 Antitrust Law Spring Meeting - Washington, DC**

April 10-12, 2013

This year's 3-day program features more than 50 substantive sessions across a wide range of hot topics in antitrust and consumer protection law, both here in the U.S. and abroad. CLE credit will be available for all sessions. Venable partner **Amy Ralph Mudge** will moderate a panel addressing the fundamentals of consumer protection, and Venable partner **Jonathan L. Pompan** will present "Navigating Consumer Financial Protection Bureau Enforcement Actions." Venable attorney **Robert P. Davis** will discuss the intersection of consumer protection and antitrust in one panel and chair another panel providing an update from the FTC Bureau Directors.

[Click here](#) to register.

**ACI's 2nd Green Marketing Compliance Summit - Chicago**

April 17-18, 2013

Aimed at in-house counsel, senior executives, and outside counsel in the advertising, promotions, marketing, media, and e-commerce industries, this ACI Summit will focus on the legal risk, compliance, and public policy challenges faced in environmental marketing. Please join Venable partner **Randal M. Shaheen** when he presents "Mitigating the Risk of Enforcement and Lawsuits: Guidance from the Government and Self-Regulating Bodies" on Thursday, April 18.

[Click here](#) to register.

**Understanding the Consumer Financial Protection Bureau - George Mason University School of Law, Arlington, VA**

May 2, 2013

Please join the GMU Law School's Law & Economics Center for a full day of informative sessions about the CFPB. Panels will include prominent practitioners, academics, and CFPB representatives. Venable partner **Jonathan L. Pompan** will speak on "CFPB Enforcement Activities" from 4:45 p.m. - 6:00 p.m. ET. Application for approval for this program is pending with the Virginia Mandatory Continuing Legal Education Board for 7 CLE hours (0 ethics).

[Click here](#) to register.

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[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](http://www.allaboutadvertisinglaw.com).

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