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Honors and Awards

Law Firm of the Year, National Advertising, *U.S. News and World Report*, 2012 and 2014

News

Know the Rules for Online Disclosures

If strings are attached to a deal, those material terms and conditions must be clearly and conspicuously disclosed, writes Federal Trade Commission (FTC) attorney Lesley Fair in the December issue of *Electronic Retailer* magazine. Fair uses two recent FTC enforcement actions against auto dealers for making deceptive online advertising claims to illustrate best practices and red flags for online claims made by all types of marketers.

[Click here](#) to read Fair's column in the December issue of *Electronic Retailer*.

Analysis

Native Advertising Red Hot; No Guidance from FTC...Yet

Combating advertisements disguised as editorial content has long been a mission of the FTC. Last week, the Commission held a widely anticipated workshop to discuss the latest incarnation of the practice, so-called "native advertising."

During the workshop, FTC Chairwoman Edith Ramirez told the audience that 73 percent of websites currently run native advertising campaigns and another 14 percent are considering them in the coming year. Given the prevalence of the practice and the high potential for consumer confusion (one panelist mentioned numbers as high as 35 percent), there is no doubt the topic is high on the FTC's list of 2014 priorities.

During the full-day session, panelists representing publishers, advertisers, agencies, the government, and consumers hashed out the practical and legal issues facing the red-hot practice. Venable partner **Amy Ralph Mudge** participated on one of the workshop's panels discussing transparency and industry best practices.

[Click here](#) to read a full recap of the workshop by Venable attorneys **Randal M. Shaheen** and **Maura A. Marcheski**, posted to Venable's advertising law blog, www.allaboutadvertisinglaw.com.

[Click here](#) to read the *New York Times*' coverage of the workshop.

[Click here](#) to watch an *Ad Age* video interview with Mary Engle, the associate director of the FTC's Division of Advertising Practices, about the workshop and the FTC's next steps.

Court Cans "Naturally Raised" Class Action

Santa may have delivered an early present for companies in the food industry, write Venable attorneys **Edward P. Boyle** and **David D. Conway** in their recent post to Venable's advertising law blog. The present came in the form of a decision, released December 2, by the U.S. District Court for the Central District of California denying class certification in *Hernandez v. Chipotle Mexican Grill, Inc.*

Boyle and Conway write that *Chipotle* is an important decision for companies selling high-volume, low-priced products frequently targeted by the plaintiffs' bar. In addition to adding a new line of defense against class certification, this precedent also provides leverage for businesses attempting to reach pre-litigation resolutions to threatened class action.

[Click here](#) to read the full text of the post by Boyle and Conway on Venable's advertising law blog, www.allaboutadvertisinglaw.com.



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Substantiated Claims Start with the Right Questions

In advertising and marketing, generating the desired response often depends on asking the right questions. Nowhere is that more true than in designing performance or consumer preference studies, write Venable partners [Amy Ralph Mudge](#) and [Randal M. Shaheen](#) in a recent post to Venable's advertising law blog.

Mudge and Shaheen point to a recent National Advertising Division (NAD) case in which the self-regulatory body found that advertising claims made by an eyelash-enhancing product were not supported by the results of the study used to substantiate the claim. This case, write Mudge and Shaheen, demonstrates the value of marketers, product testers, and the legal team coordinating at the very beginning of the study design phase.

[Click here](#) to read the full text of the post by Mudge and Shaheen on Venable's advertising law blog, www.allaboutadvertisinglaw.com.

Upcoming Events

Webinar: "Mobile Payments: Update on Legal and Regulatory Issues" for ALI CLE

December 18, 2013 | 12:30 p.m. - 2:00 p.m. EST

Issues with mobile payments continue to challenge banks and other financial services companies. Join Venable partners [John B. Beaty](#) and [Frederick M. Joyce](#) for this CLE program and learn the risks and supervisory issues inherent in this growing financial service and how current regulations apply.

[Click here](#) to learn more and register.

ERA Network LA – Santa Monica, CA

January 9, 2014

Venable is a proud sponsor of the Electronic Retailing Association's (ERA) Network LA reception. Access new direct-to-consumer marketing business contacts and join the who's who of the electronic retailing industry for an evening of cocktails and power networking in an intimate and social atmosphere.

[Click here](#) to learn more and register.

ACI's 3rd Advanced Summit on Food & Beverage Consumer Fraud Litigation – San Francisco, CA

January 28, 2014

Venable partner [Todd A. Harrison](#) will present "Minimizing the Risk of 'Piggy Back' Class Actions Post-FDA and FTC Warning Letters and Enforcement Actions" at the American Conference Institute's 3rd Advanced Summit on Food & Beverage Consumer Fraud Litigation. Learn strategies to avoid warning letters, what can trigger negative attention from the government, how to craft a response to a government warning letter without creating a litigation roadmap, and more.

[Click here](#) to learn more and register.

ERA The Great Ideas Summit – Miami

February 10-12, 2014

Join Venable, a proud sponsor of the "Thirsty Tuesday Reception," on Tuesday, February 11 from 6:00 p.m. to 7:30 p.m. EST at ERA's The Great Ideas Summit – the premier conference for electronic retailing executives as well as C-level marketers and suppliers. Meet the attorneys of [Venable's Advertising and Marketing Practice Group](#) on the show floor at booth number three.

[Click here](#) to register and receive a \$100 discount as a Venable guest when you use promotion code **EX85692**.

[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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