



March 6, 2014

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**Honors and Awards**

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

**Analysis**

## Tax Plans' New Math Is Bad News for Marketers

On February 26, the Chairman of the House Ways and Means Committee announced the release of a Tax Reform "discussion draft." The draft contains a provision limiting the deductibility of advertising expenditures comparable to one in the existing Senate Finance Committee discussion draft. The measure, if enacted, will create havoc across all sectors of the marketing industry.

While it is highly unlikely that tax reform legislation will pass in 2014, write Venable partners **Jeffrey D. Knowles** and **Ian D. Volner** in the March edition of the *DRMA Voice*, the legislative genie can be difficult to put back in the bottle. Any business that incurs advertising expenditures to promote its products or services should understand what Congress is contemplating.

[Click here](#) to read the full text of the *DRMA Voice* column by Knowles and Volner.

## Novel Payment and Discount Products Harbor Hidden Risks

Gift cards, e-cards, and daily deals are increasingly popular direct-to-consumer tactics to drive consumers to both online and brick-and-mortar stores, write Venable partners **Jeffrey D. Knowles** and **Melissa Landau Steinman** in the March edition of *Electronic Retailer* magazine. However, marketers often lull themselves into believing that novel tools, techniques, and products are less regulated than the "tried and true" methods that have been around for years.

In the case of novel payment and discount products, they write, nothing could be further from the truth. These products are regulated heavily under both federal and state law, and are watched closely by aggressive consumer class plaintiff attorneys.

[Click here](#) to learn more about the regulations governing and the agencies tracking these products, as well as the landmines marketers can accidentally trigger.

## Siri Tells Plaintiffs What to Do with Product Demo Claims

In an important development for product demonstration claims, a federal court recently dismissed with prejudice a lawsuit claiming that Apple's advertising touting the iPhone's Siri feature overstated the program's voice recognition capability.

In a recent post to Venable's advertising law blog, firm partners **Randall K. Miller** and **Randal M. Shaheen** write that product demonstrations such as the ones Apple used in its Siri advertisements are powerful because they provide the consumer with direct evidence about the product's performance. However, they are also prone to challenges based on the theory that they do not depict the product's performance in a way that replicates typical use by ordinary consumers.

In this case, Miller and Shaheen write, the judge's ruling that a number of plaintiffs' claims were without merit could be instructive for other marketers developing product demonstration ads.

[Click here](#) to read the full text of the blog post by Miller and Shaheen and learn the reasoning behind the judge's dismissal of the plaintiffs' claims.

## With NAD, "I Do" Is Forever

When the Federal Trade Commission (FTC) believes an advertising claim is not substantiated, a company



Top ranked in *Chambers USA* 2013



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can settle and typically promises not to repeat the claims at issue unless they are adequately substantiated. Even the worst offenders have the opportunity to make the same claims if they later obtain the necessary level of support.

However, that is not the case when dealing with the National Advertising Division of the Council of Better Business Bureaus (NAD), write Venable partners [Amy Ralph Mudge](#) and [Randal M. Shaheen](#) in a recent post to Venable's advertising law blog. As a case NAD recently referred to the FTC illustrates, if NAD recommends discontinuing a claim and an advertiser agrees, the self-regulatory body will not later consider new evidence substantiating the claim.

[Click here](#) to learn more about the case and factors marketers should weigh when agreeing to an NAD decision.

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## Upcoming Events

### [Merchant Acquirer's Committee Conference – Las Vegas, NV](#)

March 11-13, 2014

Venable is a platinum sponsor of the premier payments industry risk conference hosted by the Merchant Acquirer's Committee (MAC). Don't miss the conference's opening keynote presented by Venable partner and former U.S. Congressman [Bart Stupak](#) on Tuesday, March 11 at 8:40 a.m. PT. He will address self-regulation, the best practices of self-regulation, and how an industry can suffer if the government intervenes.

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

### [American Advertising Federation's Advertising Day on the Hill – Washington, DC](#)

March 12, 2014

AAF is the nation's oldest national advertising trade association, and the only association representing all facets of the advertising industry. As a proud silver sponsor of this year's Advocacy & Action: Advertising Day on the Hill program, Venable partner [Stuart P. Ingis](#) will join Congressional leadership and AAF members from 27 states and 13 of AAF's 15 districts as a featured speaker.

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

### [LeadsCon – Las Vegas, NV](#)

March 25-26, 2014

LeadsCon is the definitive conference for vertical media and direct response marketing. Venable partner [Jonathan Pompan](#) will moderate "Lead Generation Legal and Regulatory Outlook: Avoiding Pitfalls and Seizing Opportunities" on Wednesday, March 26 at 11:20 a.m. PT. Timely topics that will be discussed include pitfalls to avoid when working in such markets as legal services, mortgage, consumer and student loans, and debt relief. Attendees will also hear the latest trends in government enforcement and law enforcement actions.

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

### [ad:tech – San Francisco, CA](#)

March 26-27, 2014

ad:tech San Francisco is the leading digital media event where more than 8,500 marketing and technology professionals from all over the world convene. Visit Venable attorneys on the show floor at booth #2314. Register now and enjoy a 25% discount off your registration as a Venable guest by entering promotion code **EXH25SF14**.

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

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

### [ANA Advertising Law & Public Policy Conference – Washington, DC](#)

April 23-24, 2014

Venable is a proud sponsor of the Association of National Advertisers' Advertising Law and Public Policy Conference. This two-day program convenes regulators who influence the legal and political climate for

advertising and marketing, and top legal professionals and marketers to share the latest insights on how to succeed in the modern media world. Venable partner [Amy Ralph Mudge](#) will speak on the panel "What's Next on Native Advertising?" on Wednesday, April 23 at 3:35 p.m. ET. This panel will explore native advertising issues beyond the "to disclose or not to disclose" questions and best practices to avoid enforcement.

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

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Visit Venable's advertising law blog at [www.allaboutadvertisinglaw.com](http://www.allaboutadvertisinglaw.com).

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