



September 11, 2014

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**Marcella Ballard**mballard@Venable.com
212.370.6289**Suzanne Fay Garwood**sgarwood@Venable.com
202.344.8046**Leonard L. Gordon**lgordon@Venable.com
212.370.6252**Melissa Landau Steinman**mlsteinman@Venable.com
202.344.4972**Kristen R. Brown**krbrown@Venable.com
202.344.4468**Victoria R. Danta**vrdanta@Venable.com
212.370.6248**Honors and Awards**Law Firm of the Year, National Advertising, *U.S. News and World Report*, 2012 and 2014

Join Venable for Industry Insight and CLE Credit

Please join Venable's advertising attorneys for an Advertising Law Symposium at the San Francisco Marriott Marquis on October 20, 2014. This all-day MCLE-accredited program is a valuable opportunity to exchange ideas and network with Venable attorneys, regulatory insiders, and top advertising law thought leaders. Key topics to be addressed include challenging competitor advertising, social media and ethics requirements, branded entertainment, digital media, gaming, health-related marketing claims, and FTC and CFPB regulations.

Space is limited so [register for the free Symposium today](#).

Analysis

FTC Warning Letters Blindside Retailers

Just as the Federal Trade Commission (FTC) uses the prevalence of resolutions to shape up and slim down in the New Year to draw attention to diet and exercise claims, the Commission makes a habit of drawing attention to concussion prevention claims each August. This year, the FTC took aim at five major retailers whose ecommerce websites featured product descriptions that included marketers' allegedly unsubstantiated concussion prevention claims.

The implications of the FTC making retailers a new "choke point" for policing advertising claims, write Venable partners **Jeffrey D. Knowles** and **Leonard L. Gordon** in the September edition of the *DRMA Voice*, are grim for retailers, marketers and, most importantly, consumers.

Read the full text of the article to [learn about the warning letters and implications of this new approach to enforcement](#).

[Read the FTC's press release and the warning letters here.](#)

Read Venable's *Advertising Law Tool Kit* to [learn more about advertising claim substantiation best practices](#).

Don't Defer Lending "Grace Period" Disclosures

Deferred and waived interest programs, convenience checks, promotional rates, and grace periods are popular credit card features with consumers, creditors, and retailers – as well as the Consumer Financial Protection Bureau (CFPB), writes Venable partner **Suzanne Faye Garwood** in a recent post to the firm's advertising law blog.

On September 3, the CFPB issued Bulletin 2014-02, which provides detailed guidance on the marketing of grace periods and promotional rates for credit cards. However, Garwood writes, any creditor that offers deferred or waived interest programs should incorporate the CFPB's recent guidance into their policies and procedures.

Read Garwood's blog post to [learn how the CFPB's recent guidance will affect lenders' offers](#).

[Download a copy of CFPB Bulletin 2014-02 here.](#)

Facebook Changes the Rules on Like-Gating of Apps

One of the most common ways brands drive users to and accumulate users for their applications on Facebook is to incentivize users with sweepstakes entries, access to exclusive content, or other rewards. That, write Venable attorneys **Melissa Landau Steinman** and **Kristen R. Brown** in a recent post to the firm's advertising law blog, is about to change.

Last month, Facebook revised its Platform Policy, narrowing its standards of proper use so marketers should "[o]nly incentivize a person to log into your app, like your app's Page, enter a promotion on your



Top ranked in *Chambers USA* 2014



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

app's Page, or check-in at a place." However, the revised policy goes on to state that effective November 5, 2014, marketers may no longer incentivize people to like an app's page.

Although Facebook provided explicit examples of what incentives would, and would not, comply with the new Policy, Landau Steinman and Brown write that there is some uncertainty about how the new features of the Policy will be applied to other parts of brands' Facebook presences.

Read the full blog post by Landau Steinman and Brown to [learn more about the recent Facebook changes](#).

[View Facebook's Platform Policy here](#).

Read Venable's *Advertising Law Tool Kit* to [learn more about best practices for social media promotions and sweepstakes](#).

Mister Softee Litigation Serves up Brand Protection Lessons

For children across the country, the sight of a Mister Softee ice cream truck is a reminder summer is here. However, write Venable attorneys [Marcella Ballard](#) and [Victoria R. Danta](#) in a recent client alert, with more than 600 franchisee-operated trucks, Mister Softee never takes a vacation from brand protection.

The authors detail the brand's struggles to rein in a former franchisee who continued operating Mister Softee trucks in the New York area long after ending his franchisee relationship.

Read the full text of the client alert to [learn how Mister Softee put the rogue operator on ice](#).

Read Venable's *Advertising Law Tool Kit* to [learn more about brand protection best practices](#).

Upcoming Events

[ERA's D2C Conference – Las Vegas, NV](#)

September 16-18, 2014

Venable is a proud sponsor of the Electronic Retailing Association's D2C Convention taking place September 16-18 in Las Vegas. Please join our attorneys at Venable's booth in the exhibit hall and at the Venable-hosted Pre-Moxie Awards reception on September 18.

Venable's [Jeffrey D. Knowles](#) and [Ellen Traupman Berge](#) will participate in a panel discussion "Operation Choke Point: What it Means to Getting Paid" on September 17 at 4:00 p.m. The panelists will help you understand government initiatives including "Operation Choke Point" and others, and how they impact electronic retailers and the payment processors that serve them.

Learn how the FTC and self-regulation shape the electronic retailing industry. Join Venable's [Randal M. Shaheen](#) who is part of the panel discussion "Capitol Hill Rundown What You Need to Know about the FTC and Self-Regulation" at 1 p.m. on September 18.

Learn more about payments challenges facing direct response companies. Join Venable's [Ellen Traupman Berge](#) for the Payments Committee Townhall panel discussion on September 18 at 2:00 p.m.

To obtain a discounted exhibit hall pass that will allow you access to the expo as a Venable guest, [click here](#) and register using the code **EX11775**.

[NAD/CARU Annual Conferences – New York, NY](#)

September 29-October 1, 2014

Venable is a proud sponsor of the joint NAD/CARU conference where you will gain practical insight into enhancing the use of the advertising industry's self-regulatory forum and learn about the current challenges facing the Children's Advertising Industry.

On September 30 Venable partner [Amy Ralph Mudge](#) will moderate the "Native Advertising and Consumers: Rules of Engagement" session, which will explore strategies for building consumer trust, content creation and control, and prevailing FTC and NAD guidance.

On October 1 Venable partner [Melissa Landau Steinman](#) will participate in a CARU panel discussion "Beyond the Tube - Marketing Content to Children Through Non-Traditional Means," which will include discussions around the issues encountered when marketing movies, websites, apps, and video games to children.

Venable will host a cocktail reception at El Vez on September 29. [Click here if you are interested in](#)

[attending.](#)

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

SupplySide West – Las Vegas, NV

October 6-10, 2014

Venable and KGK Synergize will join forces as co-sponsors at this year's SupplySide West expo. This is the world's largest expo with more than 1,700 top ingredient suppliers and equipment companies, as well as lab-test firms, logistics and packaging experts. Venable's [Todd Harrison](#), [Claudia Lewis](#), [Angel Garganta](#), [Andrew Pratt](#), and [John Moore](#) will lead a number of educational workshops and briefing sessions covering a variety of pertinent topics including: clinical trials for today's headlining health issues; ITC and supply chain integrity; FSMA implications for dietary supplements; and class action lawsuits.

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

Bridging the Gaps: An Advertising Law Symposium – San Francisco, CA

October 20, 2014 | 8:00 a.m. – 5:15 p.m. PT

Please join us for an Advertising Law Symposium at the San Francisco Marriott Marquis on October 20, 2014. This all-day MCLE-accredited program is a valuable opportunity to exchange ideas and network with Venable attorneys, regulatory insiders, and top advertising law thought leaders. Key topics to be addressed include challenging competitor advertising, social media and ethics requirements, branded entertainment, digital media, gaming, health related marketing claims, and FTC and CFPB regulations.

Confirmed speakers include:

- **Ross Hoffman**, Director of Brand Strategies US, Twitter (Keynote Speaker)
- **Sheila Jambekar**, Senior Counsel, Zynga
- **Yan Fang**, Senior Attorney, Federal Trade Commission, Western Regional Office
- **Gabriel Martinez**, Advertising Counsel, The Clorox Company
- **Laura Brett**, Staff Attorney, National Advertising Division of the Council of Better Business Bureaus
- **Judge Marilyn Patel (retired)**, U.S. District Court for the Northern District of California

Space is limited. [Click here for more information and to register.](#)

Venable's San Francisco Office Celebrates One Year

Monday, October 20, 2014 | 5:30 p.m. PT

Please join us for cocktails & hors d'oeuvres as we celebrate the one-year anniversary of our San Francisco office. The anniversary celebration will be held at the Press Club in San Francisco on October 20, 2014 at 5:30 p.m. This invite-only event will provide an opportunity for guests to network and learn more about Venable's efforts and achievements on the west coast. Venable attorneys from San Francisco and other offices will be in attendance as well.

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

[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 DELAWARE MARYLAND NEW YORK VIRGINIA WASHINGTON, DC

1.888.VENABLE | www.Venable.com