



## Issue Editors

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## In This Issue

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## Honors and Awards

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

## News

### You're Not Imagining Things, There are More Regulations

If you feel like compliance with Food and Drug Administration (FDA) regulatory requirements is tougher than it used to be, it is not your imagination. According to an item in *Regulatory Focus*, a publication of the Regulatory Affairs Professionals Society, data compiled by George Mason University's Mercatus Center shows that between 2000 and 2012, the number of FDA requirements increased by 15 percent. In addition, the FDA-related sections of the *Code of Federal Regulations* have expanded by an average of almost 12,000 words per year during the same period.

While regulatory professionals working with FDA needed to know just 16,329 requirements in 2000, they needed to know 18,777 in 2012, according to the data.

Read the *Regulatory Focus* story to [learn more about the study](#).

## Analysis

### Pair of California Anti-Spam Decisions Change Legal Landscape for Commercial Emailers

This week yielded two tremendous wins for commercial emailers, writes Venable partner [Ari N. Rothman](#) and associate [Melissa McLaughlin](#) in a recent client alert. The decisions provide email marketers and the companies that hire them greater flexibility to create "from" names that increase visibility and deliverability without the threat of violating California's Anti-Spam law.

This as an opportunity for marketers to exercise more latitude in reaching consumers, Rothman writes, not a call to toss established best practices out the window. The plaintiff's bar surely will challenge these rulings, and the Federal Trade Commission (FTC) and state attorneys general can still investigate and sue companies for deceptive marketing practices.

Read the full client alert to [learn how the rulings change the game for email marketers](#).

Click here to [read the Rosolowski decision](#).

### Unlimited Claims Actually are Limitless, Says FTC

Squishy metaphysical questions are not typically the FTC's domain, write Venable partners [Amy Ralph Mudge](#), [Randal M. Shaheen](#) and associate Laura Arrendondo-Santisteban\* in a recent post to the firm's advertising law blog. So, when the Commission attempts to define the bounds of "limitless" and concludes that "unlimited" means unlimited, its literalness shouldn't come as a big surprise.

However, the authors write, the interpretation likely surprised AT&T when the FTC filed a complaint in federal court this week. The Commission alleges the carrier engaged in unfair and deceptive acts when it failed to adequately disclose its "data throttling" of high-volume users who subscribed to unlimited data plans.



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Read the blog post to [learn more about the FTC's seemingly limitless interest in disclosures](#).

*\*Laura Arrendondo-Santisteban is a Venable associate and not yet admitted to practice law.*

## NAD Wipes Away Comparative Claim Confusion

Many marketers believe that the broader the claim, the more powerful it is to consumers, and companies frequently think it is riskier to name a specific competing product than to make a broad comparative claim.

However, write Venable partners [Amy Ralph Mudge](#) and [Randal M. Shaheen](#) in a recent post to the firm's advertising law blog, as long as a direct comparative claim has the right support, it is safer to name names than to risk a recommendation to discontinue an unintentionally broad claim. In the post, they write that a recent National Advertising Division (NAD) decision provides a good primer on the basics of clearly defining comparative claims.

Read the post to [learn what NAD expects of advertisers' comparative claims](#).

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## Upcoming Events

### [Brand Activation Association's 36th Annual Marketing Law Conference – Chicago, IL](#)

November 5-7, 2014

Venable is a Platinum Sponsor of the 36th Annual BAA Marketing Law Conference, the premier forum for marketing and advertising legal and business professionals. Hear from 120 of the nation's leading executive and legal speakers from the Marketing and Advertising, Privacy, Social Media and IP Law Bars, including Venable partners [Amy Ralph Mudge](#), [Melissa Landau Steinman](#), and [Po Yi](#), as well as in-house counsel from major brands and prominent federal and state regulators.

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

Click here to [learn more about Venable's BAA cocktail reception on November 5](#).

### [The Canadian Institute's 21st Annual Advertising & Marketing Law – Toronto, ON](#)

January 26-27, 2015

Giving great advice means recognizing, anticipating, and reacting to the latest developments. Equip yourself to do just that at The Canadian Institute's 21st Annual Advertising & Marketing Law program. Stay current in this dynamic field with practical, in-depth, and innovative strategies and solutions from practice leaders, industry experts, and key regulators. Venable partner [Amy Ralph Mudge](#) will discuss third-party liability, native advertising, and the rise of class actions in Canada during her presentation "Emerging Issues to Watch" at 1:30 p.m. on January 27.

Click here to [learn more about the conference and register](#). Use the code **265SAME** when registering to save \$200.

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