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Announcement:

Don't Delay, Attend Network LA!

Los Angeles is a hub of the direct response industry. Don't miss the opportunity to network with leading direct response marketers and service providers right in the Industry's backyard. Venable is a proud sponsor of the Electronic Retail Association's Network LA event, which will take place March 19, 6:00 – 8:00 p.m., at Shutters on the Beach in Santa Monica.

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

Analysis:

FTC Dishes Out ROSCA Complaint with Focus on Disclosures

On Tuesday, the Federal Trade Commission (FTC) filed its most recent complaint alleging violations of the FTC Act and the Restore Online Shoppers' Confidence Act (ROSCA). The case, write Venable attorneys [Amy Ralph Mudge](#) and [Shahin O. Rothermel](#) in a recent post to Venable's advertising law blog, focused on DirecTV's negative option program and contract pricing structure.

The FTC's allegation that DirecTV's claim that "Package offers starting at \$24.99/mo. Limited Time" did not contain the necessary qualifying clear and conspicuous disclosures should give all advertisers something to think about as they consider disclaimers, the authors write. The disclosures would clearly be acceptable under network clearance guidelines because the disclosure language appears right below the triggering price claim with excellent white on black contrast and in a bolded font. However, the FTC's complaint takes exception to the relative size of DirecTV's disclosures, calling them "inadequate."

Read the full text of the blog post to [learn what insights the case yields about the FTC's expectations for disclosures.](#)

Click these links to read the FTC's DirecTV [press release](#) and [complaint](#).

Strong Brands Get A Little More Elbow Room

Under the traditional rules of proper trademark use, brands must be used as adjectives and in a consistent manner. However, write Venable partners [Jeffrey D. Knowles](#), [Justin E. Pierce](#), and [Andrew D. Price](#) in the March edition of the *DRMA Voice*, recent trends suggest there are ways strong brands can use their marks as a verb and use their logos in a fluid manner without substantial risk of losing the rights to that intellectual property.

Read the article to [learn why strong brands, especially famous ones, have significantly more leeway than they have enjoyed in the past.](#)

Don't Let "New" Claims Get Long In the Tooth

Few words attract consumers more effectively than "new," write Venable attorneys [David D. Conway](#) and [Laura Arredondo-Santisteban](#) in a recent post to Venable's advertising law blog. However, they add, the recommendation of the National Advertising Division of the Council of Better Business Bureaus (NAD) last week that Sprint discontinue its ubiquitous "America's Newest Network" slogan is a great reminder that the rules on "new" claims are long established.

Read the blog post to [learn why marketers that make use of "new" claims need to mark their calendars](#).

[Read the NAD's press release announcing the decision](#).

"Present Capacity" Necessary for "Autodialers" under TCPA, Court Rules

Last month, the U.S. District Court for the Northern District of California struck a blow to class action plaintiffs asserting claims under the Telephone Consumer Protection Act (TCPA). The Court interpreted the TCPA's definition of "automatic telephone dialing system" (ATDS) narrowly to mean equipment that has the "present capacity" – as opposed to "potential capacity" – to perform autodialing functions, writes Venable attorney [Daniel S. Blynn](#) in a recent post to Venable's advertising law blog.

This decision is important, Blynn writes, because it supports the view that some technologies used by telemarketers that, theoretically, could have the capacity to place autodialed calls, but have that functionality disabled and require some level of human "intervention" to place calls or send text messages do not constitute ATDSs under the TCPA.

Read the full text of the blog post to [learn more about the decision and its implications for telemarketers](#).

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

Upcoming Events:

[Electronic Transactions Association's Transact15 – San Francisco, CA](#)

March 30 – April 2, 2015

TRANSACT 15 is the must-attend event for the payments industry. Join Venable partners [Jeffrey D. Knowles](#), [Allyson B. Baker](#), and [Stuart P. Ingis](#) for insights into payments enforcement, the Consumer Financial Protection Bureau, and cyber and data security during the Venable-sponsored Policy Track at Transact15.

[Click here to learn more about Transact15 and to register to attend](#).

[2015 ANA Advertising Law & Public Policy Conference – Washington, DC](#)

The Collision of Law and Policy: What Lies Ahead for Advertisers and Marketers

March 31 – April 1, 2015

ANA's Advertising Law & Public Policy Conference is the industry's must-attend conference for senior lawyers and business executives engaged in the marketing ecosystem. Come to hear from a slate of speakers from top law firms, leading marketers, and important regulators, who will discuss the latest developments you need to know to navigate the turbulent political and legal environment.

Venable partner [Stuart P. Ingis](#) will participate on a panel titled "The Future in Ten Minutes or Less" at 8:30 a.m. ET on March 31, and Venable partner [Thomas E. Gilbertsen](#) will participate on a panel titled "Data Security – What's Next?" at 11:30 a.m. ET on March 31.

[Click here to view the agenda and register for the event](#).

Honors and Awards

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



Top ranked in *Chambers USA* 2014



Top-Tier Firm *Legal 500*



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Visit Venable's advertising law blog at www.allaboutadvertisinglaw.com.

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