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Analysis:

FCC Chair Proposes TCPA Clarity

On May 27, Federal Communications Commission (FCC) Chairman Tom Wheeler issued a fact sheet addressing two dozen petitions seeking clarity on FCC enforcement of the TCPA, and proposing significant actions intended to strengthen consumer protections related to unwanted calls and text messages. In particular, the Chairman's proposal addresses the meaning of the ever-controversial definition of "autodialer," the right to revoke consent to be called, the treatment of reassigned numbers, and the application of the statute to political calls to wireless numbers. If adopted, big changes could be in store for telemarketers, write Venable attorneys [Daniel S. Blynn](#), [Mark S. Goodrich](#), [Ellen T. Berge](#), and [Ian D. Volner](#) in a post to the firm's advertising law blog.

The FCC is scheduled to vote on the proposed updates June 18 at an open meeting.

[Read the blog post to learn more about the announcement.](#)

[Click here to read the FCC's fact sheet.](#)

TSR Violations Can Leave Partners "Assisting" with Restitution

On May 20, the Federal Trade Commission (FTC) obtained a final order against a payment processor for processing payments for a telemarketing scheme. In conjunction with a settlement agreement, the payment processor was ordered to pay \$1.7 million in restitution for its involvement in the "Treasure Your Success" robocalling credit card interest rate reduction program. The processor will pay the restitution jointly with an independent sales organization (ISO) and telemarketing company, and the owner of that company. The order, write Venable attorneys [Ellen T. Berge](#) and [Peter S. Frechette](#) in a recent client alert, serves as a reminder to payment processors of the potential liability for "assisting and facilitating" violations of the Telephone Sales Rule (TSR).

Read the client alert to [learn about "assisting and facilitating" liability that payment processors, service providers, and other partners can face when telephone sales are involved.](#)

[Click here to read the order.](#)

Is Organic the New Natural for Plaintiffs?

Class action suits over foods using the term "natural" are old news, write Venable attorneys [Leonard L. Gordon](#) and [Sarah J. Abramson](#) in a recent post to Venable's advertising law blog. Over the last few years, cases challenging "natural" and "all-natural" claims have proliferated in the absence of a clear federal definition of *natural*, while cases involving "organic" claims have remained rare, in light of detailed

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federal laws and regulations laying out a standard and a certification process for products labeled as organic. However, they write, a May 7 ruling by the United States District Court for the Southern District of New York allowing a consumer class action alleging false and misleading "organic" claims to move forward could open a Pandora's box for marketers.

Read the blog post to [learn why the decision could unleash a wave of class actions against marketers making "organic" claims](#).

[Read the full text of the judge's decision here.](#)

FTC Targets Implied Tying Claims in Mag-Moss Update

The Magnuson-Moss Warranty Act (MMWA) is one of many vehicles that plaintiffs use to bring lawsuits over warranty claims, writes Venable attorney [Kimberly Culp](#) in a recent post to Venable's advertising law blog. Earlier this month, the FTC completed a review of its *Interpretations, Rules and Guides under the MMWA*. Culp writes that one of the revisions the FTC made was to clarify that under the MMWA, warranty language that implies to a consumer that warranty coverage is conditioned on the use of select parts or service is deceptive.

Culp writes that manufacturers who have made or attempted to make tying claims in their warranties, such as language that says "use only an authorized 'ABC' dealer" or "use only 'ABC' replacement parts," should consider a review of their warranties to ensure compliance with the new guidance.

Read Culp's blog post and [learn more about the recent changes to the Magnuson-Moss Warranty Act](#).

[Read the FTC's press release announcing the changes.](#)

Upcoming Event:

Internet Retailer Conference and Exhibition

June 2-5 | Chicago, IL

Join Venable at the Internet Retailer Conference and Exhibition, the world's largest event dedicated exclusively to e-commerce. With more than 200 industry-leading speakers and more than 600 companies in the e-commerce solutions industry exhibiting at the conference, IRCE is a must-attend for companies in the e-commerce market. Plan to visit Venable at booth 358 during IRCE.

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

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