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Four More Years! Four More Years!

This week marks the fourth anniversary of Venable's *Advertising Law News and Analysis* newsletter. We thought it would be fun to share some of the most popular items from the past few years, including [the world's greatest blog posts on "puffery," FTC cases destined to give marketers nightmares, the death of disclaimers](#), and [the one book that should be on every marketer's desk](#).

We hope you enjoy the newsletter as much as we enjoy writing it, and that the content is always practical and insightful (and occasionally funny). If there is something you'd like to see us write about, or if you have any other comments about the newsletter, [drop us a line](#).

Whether you've been a reader since the first issue or recently joined our distribution list, thank you for reading.

Analysis:

Deceptive Pricing Class Certification Pops Retailer's Tags

We all love a good bargain, but sometimes a good deal seems too good to be true, write Venable attorneys [Amy Ralph Mudge](#) and [Mark S. Goodrich](#), and summer associate [Emma Marshak](#), in a recent post to the firm's advertising law blog. However, as the recent certification of the class in a California class action alleging deceptive pricing by J.C. Penney demonstrates, marketers that get too creative with "sale" and "discount" claims can get much more than they bargained for.

[Read the full blog post to learn how to use federal and state guidance to mitigate the risk of deceptive pricing claims.](#)

[Click here to read a Reuters story about the J.C. Penney case.](#)

**Emma Marshak is a Venable summer associate and is not admitted to practice law.*

FCC's TCPA Ruling Promises to Keep on Giving

On July 12 the Federal Communications Commission (FCC) released its much-anticipated Telephone Consumer Protection Act (TCPA) declaratory ruling "resolving" 21 requests for clarification received by the Commission, write Venable attorneys [Ian D. Volner](#), [Daniel S. Blynn](#), and [Mark S. Goodrich](#) in a recent client alert.

The Order, they write, will be furiously controversial. It engendered detailed dissents by two of the five Commissioners, and immediately after the release of the ruling, ACA International filed an appeal in the U.S. Court of Appeals of the D.C. Circuit. And because the Order, which purports to be definitive, does not bind the federal or state courts in which TCPA litigation takes place, it is unclear how much deference Courts will give the Order. In short, the FCC's declaratory ruling is likely just the beginning, not the end.

[Read the client alert to learn more about the specific ways the Order may spawn more, not less, TCPA-related uncertainty and litigation.](#)

[Click here to read the text of the FCC declaratory ruling.](#)

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Honors and Awards

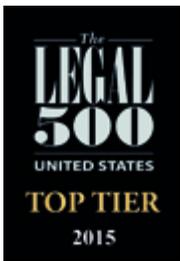
Law Firm of the Year, National Advertising, *U.S. News and World Report*, 2012 and 2014



Top ranked in *Chambers USA* 2015



Top-Tier Firm *Legal 500*



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.SUCKS Protects Your Good Name . . . Really

The Internet Corporation for Assigned Names and Numbers (ICANN) has the responsibility for the administration of domain names. In 2011, ICANN developed a program for the expansion of generic top-level domain names (gTLDs) beyond the standard .com and launched the first of the new gTLD registries in 2013, write Venable Attorneys [Marcella Ballard](#) and [Kristen S. Ruisi](#) in the most recent edition of Venable's [Digital Media Link](#).

The .SUCKS registry, owned and operated by Vox Populi, is one of the most controversial of the new gTLDs. The "Sunrise Registration" period for .SUCKS domains allowed trademark holders that registered their marks with the Trademark Clearinghouse early access to purchase domains containing their marks. That process closed on June 19, and .SUCKS domain names are now available to the public. This, Ballard and Ruisi write, is putting pressure on brand owners to decide whether, when, and how to protect their trademarks.

[Read the piece by Ballard and Ruisi to learn more about .SUCKS domains and proactive domain registration brand protection strategies.](#)

DMCA Safe Harbors Only for Sites That Follow the Rules

There is strict liability in copyright law, writes Venable attorney [Linda J. Zirkelbach](#) in a recent post to the firm's advertising law blog, and that means there can be harsh consequences for organizations with infringing content on their websites, even if the organization did not put the infringing content on the site, or even know it was there.

Four safe harbor provisions were included in the Digital Millennium Copyright Act (DMCA) to shield service providers from copyright infringement liability under certain circumstances. In her piece, Zirkelbach takes a detailed look at Section 512(c) of the DMCA. However, she points out, an organization would simply not qualify for this safe harbor from strict liability unless it followed the precise steps outlined in Section 512(c).

[Read Zirkelbach's blog post to learn why it pays to comply with DCMA's statutory requirements.](#)

Upcoming Events:

2015 ACA International Convention & Expo

July 19-21 | Boston, MA

Join Venable at the annual Association of Credit and Collection Professionals (ACA) International Convention & Expo to learn the latest trends, processes, and technologies to help you improve your company's efficiency. Venable attorney [Jonathan Pompan](#) will lead a session titled "MAP Legal Education – Navigating CFPB Investigations and Enforcement" on July 20 from 1:00 to 2:00 p.m. ET.

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

The NBJ Summit

July 20-23 | Dana Point, CA

The Nutrition Business Journal (NBJ) Summit is celebrating its 18th year as the premier event for progressive nutrition industry CEOs, investors, and thought leaders. Venable's [Todd Harrison](#) is a panelist for "Supply Chain Solutions: Why Transparency and New Approaches to Testing Are Necessary for the Future" on Tuesday, July 21 at 3:15 p.m. This session will address the changes needed to ensure supplement supply chain integrity and greater transparency for retailers and consumers. With more than 350 influential attendees scheduled to participate in this year's event, NBJ is a must-attend for companies and professionals in the nutrition industry. Plan to visit Venable at booth 13 during NBJ.

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

Women in Consumer Products Conference

July 21 | Washington, DC

ACI will present its inaugural Women Leaders in Retail and Consumer Products Law conference, a forum aimed at promoting woman-to-woman networking and mentorship and facilitating high-level discussion of the challenges and opportunities facing like-minded women in the retail and consumer products legal community.

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

[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.

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