



August 2, 2012

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

Leonard L. Gordon
lgordon@Venable.com
212.370.6252

Stuart P. Ingis
singis@Venable.com
202.344.4613

Jonathan L. Pompan
jlpompan@Venable.com
202.344.4383

Michael A. Signorelli
masignorelli@Venable.com
202.344.8050

Honors and Awards

Top ranked in *Chambers USA*
2012

News**FTC Proposes Revisions to COPPA Rule, Seeks Public Comment**

The Federal Trade Commission (FTC) this week announced a further notice of proposed rulemaking concerning proposed changes to its Children's Online Privacy Protection Rule (COPPA Rule). In September 2011, the FTC issued a notice of proposed rulemaking and sought public comments on proposed changes to the Rule. The FTC received more than 350 comments in response to its request. Now the Commission is seeking additional public comments because its proposed changes to the COPPA Rule diverge from the changes originally proposed in 2011.

Among the changes proposed by the FTC are the modification of several definitions such as "operator," "website or online service directed to children," "personal information" and "support for internal operations." In addition, the proposed revisions would clarify the responsibilities of websites that are "child-directed," as well as the responsibilities of websites that contain child-oriented content but attract a diverse audience of young children and individuals older than 13.

The FTC will accept public comments on the proposed changes until September 10, 2012.

[Click here](#) to read the FTC's press release and access the full text of the Federal Register notice announcing the proposed changes and comment period.

FTC Provides Comments on Reloadable Cards to CFPB

The FTC announced this week that the staff of the Commission's Bureau of Consumer Protection had provided comments to the Consumer Financial Protection Bureau (CFPB) supporting expanded protections for users of general-purpose reloadable (GPR) cards. The comments are in response to the CFPB's advance Notice of Proposed Rulemaking, announced in May 2012, which sought comments, data and information from the public about the costs and benefits of extending additional protections to the users of GPR cards.

GPR cards are prepaid cards that are issued for a set amount but are also reloadable, so that consumers can add funds to the cards. Use of GPR cards, like other so-called gift cards, has skyrocketed over the past several years. Both the CFPB and FTC are concerned that users of the cards may not be aware that certain federal laws that apply to other types of payment cards, such as credit and debit cards, do not apply to GPR cards.

In its Notice of Proposed Rule Making, the CFPB advocates for the extension of Regulation E, which provides protections to users of debit cards, gift cards and various other types of payroll and benefit cards, to GPR cards.

In its comments, the FTC staff focused on four types of protections that have been applied to other payment cards:

- liability limits for fraud and unauthorized use;
- disclosure of fees and expiration dates;
- error resolution procedures; and
- recurrent payments.

[Click here](#) to read the FTC's press release and access a copy of the comments supplied to the CFPB.

Olympic Advertising Battle in Full Swing



Law Firm of the Year, National Advertising, *U.S. News and World Report*, 2011-2012



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

The London Olympics are in full swing, and so is the battle over marketing efforts designed to skirt strict advertising regulations implemented in advance of the Olympics. Two weeks ago, we wrote about uniformed officers fanning out across the streets of London in search of marketers attempting to leverage the Olympic brand without being official sponsors of the summer games.

In a story published this week titled "Meet the Best Olympics Advertisers Who Can't Say 'Olympics,'" *Ad Age* highlights Olympic and London-related ads run by companies that are not official sponsors of the London Olympics. In at least one case, according to the story, an advertiser has initiated legal proceedings against the London Organizing Committee of the Olympic Games to combat the committee's efforts to take down the company's ads.

"Some reports suggest," says the *Ad Age* article, "that the right kind of creative — not necessarily sponsor status — is key to getting a huge audience for your brands during the world's biggest sporting celebration."

[Click here](#) to read the *Ad Age* story, which features numerous examples of campaigns that seek to skirt advertising regulations.

Analysis

DC Circuit Grounds Challenge to DOT Airline Fare Rules

The Department of Transportation (DOT) issued a rule in 2011 requiring greater transparency in airline price advertising, and several airlines challenged that rule as violating their First Amendment right of free speech, writes Venable partner [Leonard L. Gordon](#) in a recent post to Venable's advertising law blog, www.allaboutadvertisinglaw.com.

The DOT rule in question requires that, among other things, the most prominent price figure displayed on print and web advertising be the total price, inclusive of taxes, that a consumer will pay. Prior to the rule, airlines could advertise the base fare and the applicable taxes and fees separately. Citing consumer confusion, the DOT revised the rule to require the airlines to state the total final price most prominently.

The airlines challenged this regulation as being both arbitrary and capricious and violative of the First Amendment. On July 24, a split panel of the D.C. Circuit denied the petition challenging the rule and provided, Gordon writes, a quick primer on the contours of the First Amendment in the advertising context and highlighting a recurring issue in ad interpretation.

[Click here](#) to read Gordon's full post on www.allaboutadvertisinglaw.com, which provides a thorough exploration of First Amendment issues related to advertising interpretation.

Another CFPB Milestone — First NonBank Enforcement Action

The Consumer Financial Protection Bureau (CFPB) recently filed its first enforcement action against a nonbank financial services provider, writes Venable attorney [Jonathan L. Pompan](#) in a recent post to Venable's advertising law blog, www.allaboutadvertisinglaw.com.

The suit, which was filed July 18, 2012, is the first lawsuit of its kind under the Consumer Financial Protection Act of 2010 (CFPA). The action, against a loan modification law firm, as well as its principal, affiliates and subsidiaries, was filed under seal in the Central District of California.

It is no surprise, Pompan writes, that the case mirrors actions the FTC has been bringing over the last several years in such areas as payday loans, debt relief and loan modification.

The CFPB obtained an *ex parte* (without notice) temporary restraining order, including an asset freeze, appointment of a temporary receiver, and immediate access to defendants' business premises.

[Click here](#) to read Pompan's post and access a copy of the CFPB's complaint.

Upcoming Events

American Bar Association Annual Meeting - Chicago

August 2-7, 2012

Venable's attorneys will present sessions at this conference, which provides top-notch continuing education to the nation's lawyers. Please join Venable partner **Ralph S. Tyler** as he presents "Overriding the Experts: Executive Rejection of Administrative Agency Expertise." Also, Venable partner **Amy Ralph Mudge** will moderate a panel discussion titled "Government Cases and Class Actions: Making and Breaking the Links."

2012 Electronic Retailing Association D2C Convention - Las Vegas

September 11-13, 2012

Venable is a proud sponsor of the ERA D2C Convention. The ERA is the only trade association in the U.S. and internationally that represents leaders of the direct-to-consumer marketplace, which includes members that maximize revenues through direct-to-consumer marketing on television, online, mobile and on radio. Please visit the attorneys of our **Advertising and Marketing Group** at booth #915.

Two Venable attorneys are presenting educational sessions at ERA D2C. Join Venable partner **Jeffrey D. Knowles** as he presents "Driving Change in Electronic Retailing: Enforcement, Self-Regulation and Legislation." Venable partner **Gregory J. Sater** will moderate a panel entitled "Riding the Social Media Roller Coaster."

To obtain a complimentary exhibitor-hall pass that will allow you to attend the expo as a guest of Venable, please click [here](#) and register, using the code **VBND3607**.

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 MARYLAND NEW YORK VIRGINIA WASHINGTON, DC

1.888.VENABLE | www.Venable.com

© 2012 Venable LLP. This alert is published by the law firm Venable LLP. It is not intended to provide legal advice or opinion. Such advice may only be given when related to specific fact situations that Venable has accepted an engagement as counsel to address. ATTORNEY ADVERTISING.

[Click here to unsubscribe](#)

575 7th Street, NW, Washington, DC 20004

© 2012 Venable LLP | www.Venable.com | 1.888.VENABLE