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Honors and Awards

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News

FTC Disconnects “Cardholder Services” Calls

Less than a month after holding a “Robocall Summit” and announcing a \$50,000 cash prize for a technical solution that can automatically block robocalls placed to landline and mobile telephone numbers, the Federal Trade Commission (FTC) has announced two enforcement actions against robocallers.

In the most recent enforcement action, which was announced on November 1, the FTC alleged that five companies located in Arizona and Arkansas made millions of illegal robocalls to consumers. These calls from “Card Services” allegedly offered to reduce the interest rates on consumers’ credit cards in exchange for an upfront fee.

The FTC alleges that these companies violated the Telemarketing Sales Rule by misrepresenting their services, calling numbers on the Do Not Call Registry and collecting upfront fees for providing debt relief services. The FTC also alleges that four of the five companies violated the FTC Act.

The FTC’s press release also highlights the Commission’s close coordination with a number of state and local consumer protection and law enforcement agencies in Arizona, Arkansas, Florida, Missouri and West Virginia.

The drumbeat of the FTC’s robocall-related activity over the past month makes it clear that companies engaged in robocalling and the technology that enables such calls are squarely in the FTC’s crosshairs.

[Click here](#) to read the FTC’s press release announcing the enforcement actions and to access the complaints filed by the FTC.

Analysis

Weight-Loss Claims May Slim Marketers’ Wallets

Recent FTC consent orders have called for differing levels of substantiation to support weight-loss claims, write Venable partners **Jeffrey D. Knowles** and **Gary D. Hailey** in the November edition of the *DRMA Voice*. According to Knowles and Hailey, there is not a one-size-fits-all answer for weight-loss claim substantiation and the consequences of not substantiating these types of claims sufficiently can be severe.

In the article, Knowles and Hailey break down the details of recent FTC consent orders dealing with weight-loss claims and provide analysis of what the orders mean for marketers of different types of weight-loss products, including dietary supplements, exercise equipment and diet plans.

[Click here](#) to read the full article in the latest edition of the *DRMA Voice*.

Fashion Litigation Yields Brand Protection Tips

Three recent skirmishes involving fashion brand owners and their non-traditional marks provide strategy tips for those looking to defend their brands against alleged copycats, writes Venable partner **Marcella Ballard** in the October edition of Venable’s *IP Buzz* newsletter.

The article examines matters including the “red sole” trademark owned by designer Christian Louboutin,



Top-Tier Firm *Legal 500*



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the trade dress of the "Clyde" bag by designer Monica Botkier, and the Adidas "four stripe" design on sneakers. Each of these cases was favorably enforced, and Ballard explains the pointers these cases provide for companies seeking to defend their intellectual property against perceived infringers.

[Click here](#) to read the full text of Ballard's article.

CFPB Sets Sights on the Credit Counseling Market

As the Consumer Financial Protection Bureau (CFPB) continues to announce enforcement actions and regulatory changes to the consumer financial legal landscape, there are hints about how the Bureau will look at credit counseling services, writes Venable attorney [Jonathan L. Pompan](#) in the 3Q 2012 edition of *The Independent Counselor*.

Nonprofit credit counseling services and debt settlement services are mentioned specifically in the CFPB's proposed rule defining larger market participants in the debt relief services market. Although it is not certain when the CFPB will release its final rule, Pompan believes the core definition will almost certainly continue to cover counseling services.

Despite the CFPB's generally supportive attitude towards services that assist consumers in financial distress and its support for housing counseling services in the recent mortgage disclosure rulemakings, Pompan writes that recent regulatory developments, enforcement actions, and public comments indicate that credit counseling agencies need to be prepared for additional scrutiny.

[Click here](#) to read the full text of Pompan's article in *The Independent Counselor*.

Upcoming Events

[34th Annual Promotion Marketing Association Marketing Law Conference - Chicago](#)

November 12-14, 2012

Venable is proud to sponsor the PMA Marketing Law Conference, featuring the nation's leading speakers from the Marketing and Advertising Law Bar and from major brands and prominent regulators. Venable partner [Melissa Landau Steinman](#) serves as co-chair and will present a session on gift cards and coupons. Joining her as speakers at the conference are Venable partner [Roger A. Colaizzi](#), who will address class action and governmental investigation defense, and Venable partner [Leonard L. Gordon](#), whose topic is telemarketing law enforcement.

Please join Venable at PMA. To register, please [click here](#).

An Update from Washington: Impending Income, Gift and Estate Tax Law Changes

November 13, 2012 - Venable LLP, Baltimore, MD

November 14, 2012 - Venable LLP, Washington, DC

The end of 2012 promises many changes to our tax laws. Please join us as we discuss the outcome of the national election as it relates to overall tax policies. Our panel will address how to cope with the impact these changes will have on your business and your clients.

To register, please [click here](#). There is no cost to attend this event.

[Running Sweepstakes, Contests and User Generated Content Promotions on The Latest Social and Mobile Marketing Platforms](#)

November 28, 2012

[Melissa Landau Steinman](#) will speak about how federal and state laws regulating sweepstakes and contests apply in the context of these new technologies, as well as how the rules adopted by the individual platforms will apply to the increasingly cutting-edge promotions being proposed by innovative and creative marketing departments. Join ACC and Venable for an informative discussion of how these promotions may be regulated, including some strategies for creating compliant promotions that are successful in the marketplace, too.

Venable is the proud sponsor of ACC's IT, Privacy & e-Commerce Committee.

To register, please [click here](#).

["Telemarketing, Email and Text Message Marketing: Tips to Avoid Lawsuits," LeadsCouncil Webinar](#)

December 11, 2012

Jonathan L. Pompan will moderate this discussion with **Ari N. Rothman** and **Molly T. Cusson**, two attorneys with extensive experience advising lead generators and affiliate markets on legal and regulatory matters. The session will address the effective management of legal and regulatory risks when marketing via telemarketing, email and text messaging marketing. It will also provide pointers on negotiating contract protections, shoring up due diligence, minimizing compliance gaps, and what to do when your company is involved in a lawsuit.

Registration information is TBD. Please visit the [Leads Council website](#) for registration updates.

[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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