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Honors and Awards

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2013

**Tools**

Put Venable's Knowledge at Your Fingertips

Advertisers, marketers, and their service providers are under intense scrutiny from federal and state regulators, as well as plaintiffs' attorneys. Today, even the most innocuous-seeming action can create regulatory risk. To help marketers navigate this environment, Venable has created the "Advertising Law Tool Kit," a handy set of checklists to help manage risk in areas such as advertising claims, online disclosures, green claims, and brand protection. In addition to the checklists, each section of the Tool Kit provides deeper context by linking to recent articles, alerts, and white papers about that area of law written by Venable attorneys.

Although it cannot replace fact-specific legal advice, the Tool Kit can help marketers identify potential issues before they become very real problems. Look for new editions in coming months as the Tool Kit is updated and expanded.

[Click here](#) to explore the online version of the Tool Kit or to download a printable version of the document.

[Click here](#) if you would like to suggest a topic for a future Tool Kit section or provide feedback on the Tool Kit.

Analysis

Think Marketers Aren't Responsible for Affiliates? Think Again

Using affiliate marketers to promote a product online can be an attractive proposition for marketers. They are aggressive, buy media on their own dime, are paid only if they produce conversions, and operate at arms' length. However, Venable partners [Jeffrey D. Knowles](#) and [Gregory J. Sater](#) write in the October edition of *Response* magazine, a recent decision by the Tenth Circuit Court of Appeals has changed that calculus. One implication of the case, which concerns among other things the purchase of certain Google keywords, is that marketers can now be held responsible for the advertising practices of the affiliates promoting their products.

[Click here](#) to read the full text of the article and learn what steps a brand should take to ensure its affiliates are not creating legal exposure, in addition to sales.

New York AG Unplugs Fake Online Reviews

Online reviews are a powerful driver of sales. By some accounts, they influence the purchasing decisions of up to 90 percent of consumers. This power creates a strong temptation for marketers, or their service providers, to create bogus reviews, writes Venable partner [Leonard L. Gordon](#) in a recent post to Venable's advertising law blog.

The power of such reviews and the prevalence of fake reviews led the New York Attorney General's office to investigate and crack down on companies posting fake online reviews. Last week, the AG's office announced a major enforcement action that included 19 companies involved in the practice and imposed more than \$350,000 in fines.

[Click here](#) to read Gordon's analysis of the enforcement action in his post to Venable's advertising law blog, www.allaboutadvertisinglaw.com.



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

[Click here](#) to read the New York AG's press release announcing the enforcement action.

NAD Serves up Decision on Whole Grain and Fiber Claims

Few things will land an advertising claim before the National Advertising Division (NAD) faster than tapping into a hot industry trend, write Venable partners [Amy Ralph Mudge](#) and [Randal M. Shaheen](#) in a recent post to Venable's advertising law blog. Take, for example, Barilla's recent challenge to "whole grain" and "fiber" advertising claims Ronzoni made for its Healthy Harvest pasta.

In its decision, NAD cited the Food and Drug Administration's (FDA) draft guidance on whole grain claims and concurred that such claims can give consumers false messages as to how much nutrient content a food contains. However, the self-regulatory body concluded that it would not prohibit Ronzoni's claims absent specific evidence that consumers take away a false message that Barilla's product contains less fiber.

This matter, Mudge and Shaheen write, demonstrates just how messy all types of implied claims – not just those for food – can become.

[Click here](#) to read the full text of Mudge and Shaheen's analysis of the Ronzoni challenge on Venable's advertising law blog, www.allaboutadvertisinglaw.com.

[Click here](#) to read NAD's press release about the decision.

[Click here](#) to read the full text of the FDA's draft guidance for whole grain claims.

Upcoming Events

[ad:tech New York – New York City](#)

November 6-7, 2012

ad:tech spans the full ecosystem of advertising, digital marketing and technology that moves business forward. Please join Venable attorneys at our booth (#1006) on the show floor.

[Click here](#) to register and receive 25% off any pass type. Enter discount code **NY13EXH25**.

[35th Annual Brand Activation Association Marketing Law Conference – Chicago](#)

November 18-20, 2013

Venable is proud to sponsor the BAA 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](#) will present a session on gift cards, coupons, and loyalty programs. Joining her as speakers at the conference are Venable partners [Po Yi](#), who will join a roundtable to discuss legal aspects of partnering with the media on integrated marketing programs, and [Amy Ralph Mudge](#), who will address how to respond when the FTC challenges advertising.

Please join Venable at these sessions and at our reception at the House of Blues on November 18.

[Click here](#) to learn more about the BAA Conference and to receive \$100 off your registration as a Venable guest when you enter discount code **VENABLE100**.

[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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