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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* 2013

News

FTC Seeks Comment on Fair Packaging and Labeling Act Rules

The FTC is responsible for promulgating rules to enact the Fair Packaging and Labeling Act (FPLA). The language of the Act requires that labels for certain types of products identify the contents, source, item quantity, and other information in order to help consumers compare products. The Commission last updated its FPLA rules in 1994. Interested parties have until May 21, 2014 to submit comments on the current rules.

[Click here](#) to read the FTC's press release announcing its call for comments and access a copy of the FTC's Federal Register notice.

Analysis

Ink Still Drying on Supreme Court's *Lexmark* Decision

On March 25, the Supreme Court issued its decision in *Lexmark International, Inc. v. Static Control Components, Inc.*, resolving a three-way Circuit split on the issue of who has standing to bring a Lanham Act false advertising claim. Venable partner **Jessie F. Beeber** writes in a recent post to Venable's advertising law blog that Justice Antonin Scalia, who authored the Court's unanimous decision, found that each of the three Circuit courts' standards were inadequate. Instead, he outlined a test that looks to: (1) whether the plaintiff's interests fall within the "zone of interests" protected by the statute; and (2) whether the plaintiff's injuries were proximately caused by the alleged violations of the statute.

Beeber writes that although the decision gives some much needed clarity to who can and cannot sue for false advertising, it also leaves some very important questions for advertisers unanswered.

[Click here](#) to read the full text of Beeber's post on Venable's advertising law blog, www.allaboutadvertisinglaw.com.

[Click here](#) to read the full text of the Supreme Court opinion in *Lexmark v. Static Control*.

FTC says Weak Disclosures? Special Effects, Too? Nissan's on the Dark Side of the Dune

A popular Nissan pickup truck ad that resulted in FTC consent orders for both Nissan and its ad agency holds a number of lessons for advertisers, writes Venable partner **Gregory J. Sater** in the March 2014 edition of *Response* magazine. The ad featured amateur-looking video of a Nissan Frontier pushing a stuck dune buggy over the top of a steep dune. However, it did not disclose the use of a hidden cable to pull the truck up the hill. Failing to disclose the use of the cable, Sater writes, was only the beginning to the trouble for Nissan and its agency.

[Click here](#) to learn the Nissan matter's lessons for marketers when it comes to consumer perception, product demonstration, disclosures and the use of special effects.



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

Appeals Court Liberally Interprets Credit Repair Statute

The Ninth Circuit's recent opinion in *Stout v. FreeScore, LLC* is not a good one for advertisers of credit counseling, debt relief services, credit monitoring, and similar products and services, writes Venable partner **Jonathan L. Pompan** in a recent client alert. The decision, he writes, further confuses application of the Credit Repair Organizations Act (CROA) across the nation by departing from the text of CROA and falling in line with the broad view asserted by the FTC and class action attorneys.

In the case, the defendant argued that it did not make any promises of credit improvement, it merely promised to provide consumers with their credit scores. However, the Court held that, under the language of CROA, a person need not actually provide credit repair services to fall within the statutory definition of a credit repair organization. Pompan writes that in the wake of this decision, companies advertising credit-related products and services should consider CROA compliance as part of their overall compliance program.

[Click here](#) to read the full text of Pompan's client alert.

[Click here](#) to read the Ninth Circuit's decision.

Upcoming Events

Health Practitioner Marketing Forum – Long Beach, CA

April 2-4, 2014

On Thursday, April 3 at 8:15 a.m. PT, Venable partner **Claudia A. Lewis** will present "Legal & Regulatory Update: The View from Washington DC" at the second annual Health Practitioner Marketing Forum, an executive summit focused on opportunities in the rapidly expanding health practitioner channel of the natural products industry.

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

ETA TRANSACT 14 – Las Vegas, NV

April 9-10, 2014

The Electronic Transaction Association's TRANSACT 14 conference is the one place where the global payments and transactions ecosystem comes together. Visit us at booth #1121 and attend our sponsored policy education track sessions to learn about the important legal issues affecting the payments industry.

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

ANA Advertising Law & Public Policy Conference – Washington, DC

April 23-24, 2014

Venable is a proud sponsor of the Association of National Advertisers' Advertising Law and Public Policy Conference. This two-day program convenes regulators who influence the legal and political climate for advertising and marketing, as well as top legal professionals and marketers, to share the latest insights on how to succeed in the modern media world. Venable partner **Amy Ralph Mudge** will speak on the panel "What's Next on Native Advertising?" on Wednesday, April 23 at 3:35 p.m. ET. This panel will explore native advertising issues beyond the "to disclose or not to disclose" questions and best practices to avoid enforcement.

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

Response Expo – San Diego, CA

April 29-May 1, 2014

Please join Venable at the Response Expo 2014, which brings together key decision-makers and industry leaders from the corporate marketing arena and direct response spectrum. Visit us at booth #212 and meet attorneys in our **Advertising and Marketing Practice Group**. Also, be sure to join us at the "Venable Justice League" networking reception on Wednesday, April 30 from 4:30 - 6:00 p.m. PT on the Aqua Patio.

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

[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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