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Honors and Awards

Top ranked in *Chambers USA*
2012

**Analysis**

FTC vs. POM Wonderful: Scorched Earth Approach Burns Other Marketers

Not many marketers have the fortitude or the financial wherewithal to go toe-to-toe with the Federal Trade Commission (FTC) to fight a charge of false advertising, writes Venable partner **Gregory J. Sater** in the May issue of *Electronic Retailer* magazine. However, he writes, that is not the case with POM Wonderful. Over the past two years, POM has battled the FTC over allegations of false advertising for its POM Wonderful pomegranate juice and POMx supplements.

He writes that there have been victories and setbacks for both sides in the case, but the real casualties of the POM Wonderful battle may be other marketers. Those marketers, Sater says, must now consider the *POM* decision when developing claims, even if they are not selling pomegranate-based products or making disease-treatment or disease-prevention claims. This is because the language in the decision covers issues that can affect many kinds of marketers selling many kinds of products.

[Click here](#) to read Sater's column, which details many of the implications of the *POM* decision.

"New" Claims: There are Rules for Reboots

A recent Audi commercial featured Leonard Nemo, the original "Mr. Spock" from *Star Trek*, and Zachary Quinto, who plays "Mr. Spock" in the recent reboot of the franchise. The ad spurred Venable partners **Amy Ralph Mudge** and **Randal M. Shaheen** to think about the term "new" in advertising. They write about varying guidance for the use of "improvement claims" by the FTC, television networks, and the NAD in a recent post to Venable's advertising law blog, www.allaboutadvertisinglaw.com.

[Click here](#) to read their post and view the Audi ad.

FTC Calls Stakeholders Together for Roundtable on Mobile Cramming

The FTC has taken greater interest in so-called "mobile cramming" - the placement of unauthorized third-party charges on consumers' mobile telephone bills - in the past few months, write Venable attorneys **Amy Ralph Mudge** and **Maggie T. Grace** in a recent post to Venable's advertising law blog, www.allaboutadvertisinglaw.com.

On May 8, the FTC hosted a roundtable on the topic. Among the points of disagreement between the panelists, write Mudge and Grace, were the actual prevalence of mobile cramming and how to measure the problem, as well as whether there is a need for government-imposed regulation.

The FTC concluded the workshop by announcing that it will publish a followup report, continue to monitor developments in the area, and, when appropriate, bring enforcement actions.

[Click here](#) to read the full text of the blog post by Mudge and Grace, which provides a more thorough recounting of the discussions at the workshop.

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



Top-Tier Firm *Legal 500*



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News

FTC Letters Remind Companies COPPA Update is Coming July 1

On May 15, the FTC announced that it had sent "educational" letters to more than 90 providers of online services, including mobile application developers. The purpose of the letters was to notify the companies that their products or services appear, to the FTC, to collect information from children under age 13 that will fall under the new definition of "personal information" when the updated Children's Online Privacy Protection Rule (COPPA Rule) takes effect July 1.

Under the revised rule, the definition of "personal information" has expanded to include photos, videos, and audio recordings of children, as well as persistent identifiers that can recognize users over time and across different web sites and online services. Under the COPPA Rule, companies that collect personal information from children must get parents' consent before collecting that information. They must also ensure that third parties receiving the information keep the information secure and confidential.

[Click here](#) to read the FTC's press release and to access sample copies of the letters.

Upcoming Events

[ERA'S Government Affairs Fly-In 2013 - Washington, DC](#)

May 21-23, 2013

Please join Venable at the Electronic Retailing Association's 2013 Government Affairs Fly-In. The event presents an outstanding opportunity to learn more about the regulatory and legislative efforts affecting the electronic retailing industry and to meet with lawmakers and senior agency officials. Venable's [Jeffrey D. Knowles](#) will be among the dozen senior-level speakers from Capitol Hill, federal agencies, industry self-regulatory bodies, policy think tanks, and the electronic retailing industry.

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

[Internet Retailer Conference and Exhibition 2013 - Chicago](#)

June 4-7, 2013

The 9th annual Internet Retailer Conference and Exhibition, the world's largest e-commerce event, will analyze the social, mobile, global, personal, interactive, and managerial changes that e-commerce players are bringing to the new retail economy. Please join Venable attorneys at booth #464 to learn how the firm can help you grow your business and avoid the pitfalls of conducting commerce via the Internet.

[Click here](#) by June 2 to take advantage of discounted registration as a guest of Venable.

[ERA's HomeShopping Conference 2013 - Rome](#)

June 23-25, 2013

Whether you use the power of direct response to sell goods and services on television, online, or in the mobile/wireless world, the ERA European HomeShopping Conference is the place where you will find a truly global representation of people from within the industry. Venable partner [Claudia A. Lewis](#) will present a transactional and regulatory update that will provide inside views and information for product marketers who want to do business in the United States.

[Click here](#) to learn more.

[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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