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Honors and Awards

Law Firm of the Year, National Advertising, *U.S. News and World Report*, 2012 and 2014

Analysis

FTC says Agencies Responsible for Clients' Deceptive Ads

For years, advertising agencies have seemed to fly blissfully under the Federal Trade Commission's (FTC) radar, write Venable Attorneys **Amy Ralph Mudge**, **Randal M. Shaheen**, and **Mark S. Goodrich** in a recent post to Venable's advertising law blog. It was 1992 the last time the FTC targeted a traditional ad agency for deceptive advertising...until last week.

On January 23, the FTC announced a settlement with Nissan North America, Inc. and its advertising agency, TBWA Worldwide, Inc., to settle allegations that the marketer and its agency created commercials for the Nissan Frontier pickup truck that included deceptive depictions of product performance.

Targeting ad agencies may not be as shocking as it seems. Recently, the FTC has sought any way possible to protect consumers from fraud and deception. In the current environment, the authors write, it seems as if almost anyone can be liable for deceptive advertising.

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

[Click here](#) to read the FTC's press release and documents related to the Nissan/TBWA settlement.

Don't Let Product Claims Fly Solo with Other Products

In many industry verticals, such as skin care, marketers frequently offer a line of products to address a particular need. Many times, those products are bundled as a set, or an ad for a particular product will mention the complete line or family of products. In a recent post to Venable's advertising law blog, Venable partners **Amy Ralph Mudge** and **Randal M. Shaheen** write that a December 2013 National Advertising Division (NAD) decision examined when a claim intended for one product could be interpreted as a promise that each product in the bundle, or the line, would provide the same benefit.

Mudge and Shaheen write that in light of the NAD decision, the safest route for marketers is to include only products that individually can support the claim or otherwise make clear which products perform the advertised functions and which do not. This is particularly true when the advertised claims are health or performance related.

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

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

FTC Wants TV to Trim Deceptive Diet Ads

It should come as no surprise to marketers that the FTC has a soft spot for advertising associated with diet, weight-loss, and body-shaping claims, write Venable attorneys **Jeffrey D. Knowles**, **Randal M. Shaheen**, and **Maura A. Marcheski** in the January issue of *Response* magazine. On January 7, the FTC announced a new initiative, dubbed "Operation Failed Resolution," to combat allegedly deceptive advertising claims for weight-loss and body-shaping products.

As part of the initiative, the Commission sent letters to 75 print, broadcast, and digital media outlets promoting an FTC publication intended to help sales staff at media outlets identify facially deceptive advertising for diet, weight-loss, and body-shaping products. Comments by FTC staff made it clear that



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although use of the guidelines is voluntary, the Commission believes that media outlets are the most effective means of policing advertising.

The authors write that the announcement puts companies making these types of claims on notice. Federal and state regulators are picking through such claims with a fine-tooth comb, and it would be exceptionally unwise for marketers to "wing it" when formulating diet, weight-loss and body-shaping products claims.

[Click here](#) to read the full text of the *Response* magazine article by Knowles, Shaheen, and Marcheski.

[Click here](#) to read the FTC's *Gut Check* guidance.

Home is Not Where the Suit is

On January 14, 2014, the United States Supreme Court decided *Daimler AG v. Bauman*, which considered whether a corporation domiciled abroad can be subject to general personal jurisdiction in a U.S. court based on the activities of the foreign corporation's U.S. subsidiary. A defendant over which a court has general jurisdiction can be subject to suit in that court on any claim, even those claims that are unrelated to the defendant's activities in the forum state.

In a recent client alert, Venable counsel [David N. Cinotti](#) and law clerk [Nicholas M. Buell](#) write that the Court unanimously held that it violates due process for a court to exercise general personal jurisdiction over a corporation that is not "at home" in the forum state.

The decision has important implications for foreign and domestic corporations alike. Among those, write Cinotti and Buell, is that it severely restricts plaintiffs from asserting that a corporation not incorporated in or with its principal place of business not in the forum state can be sued there on claims unrelated to that company's activities in the forum state.

[Click here](#) to read the full text of the client alert by Cinotti and Buell.

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

Upcoming Events

[ABA's Section of Antitrust Law: "Representing Clients Before Both Bureaus: What You Should Know About The 'Other' Bureau" – Washington, DC](#)

February 3, 2014 | 12:00 p.m. – 1:30 p.m. ET

Many attorneys representing clients at the FTC spend their careers before one of the Bureaus without appearing before the other. Join Venable partner [Randal M. Shaheen](#) for this informative panel discussion sponsored by the Federal Civil Enforcement Committee of the ABA's Section of Antitrust Law, and hear from both current FTC Bureau Directors and a former acting General Counsel. Learn how to advocate effectively at the FTC regardless of Bureau, and better understand how much of what you learned practicing before one Bureau applies to the other.

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

[Webinar: "Legal Issues in Running Social Media and Mobile Sweepstakes and Contests"](#)

February 6, 2014 | 1:00 p.m. – 2:30 p.m. ET

As the regulatory landscape governing social and mobile media continues to evolve, marketers utilizing new media must adapt and be cognizant of potential legal issues. Join Venable partner [Melissa Landau Steinman](#) for this CLE-accredited webinar and learn the legal issues relating to conducting a prize promotion through social and/or mobile media.

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

[ERA The Great Ideas Summit – Miami, FL](#)

February 10-12, 2014

Join Venable, a proud sponsor of the "Thirsty Tuesday" reception, on Tuesday, February 11 from 6:00 p.m. to 7:30 p.m. ET at ERA's The Great Ideas Summit – the premier conference for electronic retailing executives as well as C-level marketers and suppliers. Meet the attorneys of [Venable's Advertising and Marketing Practice Group](#) on the show floor at booth number three.

[Click here](#) to register and receive a \$100 discount as a Venable guest when you use promotion code **EX85692**.

Digital Entertainment World – Los Angeles, CA

February 18-20, 2014

With content at its core, Digital Entertainment World is a leading business-to-business event and marketplace for global media and technology executives. Venable partner **Po Yi** will moderate a panel titled "The Role of Brands in Creating Effective, Impactful & Monetizable Digital Content" on February 19 at 11:15 a.m. PT. Venable Partner **Justin E. Pierce** will moderate "Balancing Act: Embracing Innovation and IP Protection" on February 19 at 2:45 p.m. PT.

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

ACI's Legal, Regulatory and Compliance Forum on Cosmetics – New York, NY

February 19-21, 2014

Join Venable partner **Claudia A. Lewis** on February 19 at 2:00 p.m. ET for a "Working Group on Cosmetics 101" at the American Conference Institute's Legal, Regulatory and Compliance Forum on Cosmetics. This hands-on workshop will provide an overview of the law and regulations governing cosmetics. Key topics that will be addressed include the role and authority of the FDA in the cosmetics market, structure/function claims, label requirements, cosmetic promotion and advertising, adverse event reporting, and recalls.

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

"Connecting the Dots: An Advertising Law Symposium" Presented by Venable – New York, NY

March 11, 2014 | 8:00 a.m. – 5:15 p.m. ET

Hear from seasoned litigators, advertising and marketing executives, and top representatives from key regulatory enforcement bodies, including the FTC, FDA, and NAD at "Connecting the Dots: An Advertising Law Symposium" hosted by **Venable's Advertising and Marketing Practice Group**. This full-day, CLE program will tackle advertising law hot topics, including comparative claims, native advertising, social and digital media, and celebrity endorsements. Don't miss this stimulating educational forum to exchange ideas, engage in strategic thinking, and network with regulatory insiders and top advertising law thought leaders. Complimentary breakfast and lunch will be served with a cocktail reception to immediately follow the program.

[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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