



Issue Editors

Jeffrey D. Knowles
jdknowles@Venable.com
202.344.4860

Roger A. Colaizzi
racolaizzi@Venable.com
202.344.8051

Gary D. Hailey
gdhailey@Venable.com
202.344.4997

In This Issue:

Jeffrey D. Knowles
jdknowles@Venable.com
202.344.4860

Danielle R. Foley
drfoley@Venable.com
202.344.4343

Thomas E. Gilbertsen
tegilbertsen@Venable.com
202.344.4598

Amy Ralph Mudge
amudge@Venable.com
202.344.4743

Randal M. Shaheen
rmshaheen@Venable.com
202.344.4488

Elizabeth E. Forbes
eeforbes@Venable.com
202.344.4498

Mikhia E. Hawkins
mhawkins@Venable.com
202.344.4573

Honors and Awards

2011 *Chambers USA* Award for
Excellence Winner

News

FTC to Host Dot Com Disclosures Workshop on May 30

As we have written before, the Federal Trade Commission's "Dot Com Disclosures," a guidance document for online advertisers, was originally published 12 years ago. Last year, the Commission announced that it was updating said document to address the significant technological advancements and marketing developments of the last decade, and asked for public comment on how it should be revised.

The next major step the process of revising the guidance in "Dot Com Disclosures" will be a one-day workshop hosted by the FTC on May 30. The FTC has published a list of likely workshop topics, and is soliciting feedback on those possible topics. It is also inviting interested parties to submit realistic hypothetical ads that might be used to illustrate concepts and facilitate discussion at the workshop.

The agency is also seeking panelists to participate in the workshop. Interested individuals should email dotcomdisclosuresworkshop@ftc.gov by March 30 and include a statement outlining their background on Internet advertising issues.

[Go here](#) to read the FTC's recent press release about the upcoming workshop.

Analysis

Venable's win in *McNair v. Synapse Group* has Important Implications for Future Consumer Class Actions

Venable lawyers **Thomas E. Gilbertsen**, **Danielle R. Foley**, and **Elizabeth E. Forbes** successfully defeated appeal of a denial of class certification in a putative multi-state class action pending in the United States Court of Appeals for the Third Circuit. The case, *McNair v. Synapse Group Inc.* Case No. 11-1743 (March 6, 2012, 3rd Circuit), challenged a variety of marketing practices including data-pass, adequacy of disclosures, continuity programs, and cancel/save procedures under multi-state consumer fraud statutes, as well as claims under the federal Electronic Funds Transfer Act and Unordered Merchandise Statute.

This is a significant decision because it confirms the constitutional requirement that class-action plaintiffs must have an ongoing stake in the defendant's conduct to seek any prospective relief. Gilbertsen and Forbes discuss the case in detail in a recent case summary.

[Go here](#) to read the case summary.

[Go here](#) to read Venable's press release about the win.

The Litigation War Against "Natural" Continues

Venable partners **Randal M. Shaheen** and **Amy Ralph Mudge** write on Venable's advertising law blog, www.allaboutadvertisinglaw.com, that the lack of general regulation of the term "natural" by federal agencies has left the use of the term a ripe target for consumer class action litigation.

[Go here](#) to read their blog post.

Recent News Demonstrates Robocalling is on Regulators' Radar

On Feb. 15, the Federal Communications Commission ("FCC") approved significant changes to its rules regarding telemarketing calls. These changes, as well as the recent FTC settlements, demonstrate that regulators are paying attention to the robocalling space. It is critical, write Venable attorneys **Jeffrey D. Knowles** and **Mikhia E. Hawkins** in the most recent edition of the "DRMA Voice," that marketers using robocalls, whether for lead generation, upselling existing clients, or any other reason, understand the



Top-Tier Firm, *Legal 500*



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



For more information about Venable's award-winning Advertising and Marketing practice, please visit our website at www.Venable.com/Advertising-and-Marketing

regulations and develop best practices to ensure compliance with the state and federal rules regulating telemarketing.

[Go here](#) to read their "DRMA Voice" column.

Promoting NAD Decisions for Marketing Gain: What Really Happens to Offenders?

The procedural rules for the National Advertising Division of the Council of Better Business Bureaus ("NAD") require parties who participate in the process to keep the proceedings confidential while the case is pending and not to use the decision for promotional purposes.

Venable partners [Randal M. Shaheen](#) and [Amy Ralph Mudge](#) write on Venable's advertising law blog, www.allaboutadvertisinglaw.com, that the NAD has taken exception to the actions of several consumer electronics companies after a recent NAD proceeding. In the post, they discuss the history behind such announcements, what recourse the NAD has, and why it might not be a good idea to flout the rules.

[Go here](#) to read their blog post.

Upcoming Events

Natural Products Expo West / Engredea 2012

March 9-11, 2012

Visit with Venable's [Dietary Supplements, Food & Cosmetics](#) attorneys during this co-located exposition. Stop by our booth (No. 246 in Hall A). [Michelle C. Jackson](#) and [Todd A. Harrison](#) will present a case study on "Claiming to be the Best: Understanding How to Substantiate Your Claims" on Friday, March 9 at 1:30 p.m. (PST) in Hall A.

International Home and Housewares Show 2012 - Chicago

March 10-13, 2012

Join [Jeffrey D. Knowles](#) and [Roger A. Colaizzi](#) for a presentation that will answer the question "Can You Substantiate That? Alerting Marketers to Increasing FTC Scrutiny" on March 11 at 11:30 a.m. (CST) in Lakeside Innovation Theater, E350.

American Conference Institute's Food & Beverage Marketing & Advertising Law Conference

March 19-20, 2012

Venable is a proud sponsor of ACI's Food & Beverage Marketing & Advertising Law Conference. Join [Todd A. Harrison](#) for a presentation on "Pom and Its Progeny: Examining Development Case Law Addressing Evolving FTC Requirements for Health-Related Claims," and [Claudia A. Lewis](#) for a "Deep Dive into Food and Beverage Claim Substantiation."

American Bar Association's Antitrust Law 2012 Spring Meeting - Washington D.C.

March 30, 2012

Venable partner [Amy Ralph Mudge](#) will moderate this panel in which a group of distinguished speakers will answer: Will the 2011 term decisions represent a sea change in the treatment of class action litigation, or will they be narrowly interpreted by lower courts? At issue are binding arbitration clauses in consumer contracts, class certification, jurisdiction over foreign corporations after Goodyear/Nicastro, and re-litigating dismissed class allegations after Bayer. The panel begins at 8:15 a.m. (EST)

Toxics Regulation for Retailers and Consumer Products Manufacturers - Los Angeles.

April 24, 2012

Please join Venable partner [Randal M. Shaheen](#) when he presents "[Setting up an Effective Sustainability Marketing Program and Avoiding Greenwashing Claims.](#)" Shaheen will provide an update on recent regulations, case law, regulatory initiatives, compliance and marketing issues to assist attorneys, corporate management, risk managers, insurance professionals and governmental representatives. The presentation starts at 1:15 (PST) and will take place at the Radisson Hotel at Los Angeles Airport.

Visit Venable's advertising law blog at www.allaboutadvertisinglaw.com.

[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.

If you have friends or colleagues who would find this alert useful, please invite them to subscribe at www.Venable.com/subscriptioncenter.

CALIFORNIA MARYLAND NEW YORK VIRGINIA WASHINGTON, DC

1.888.VENABLE | www.Venable.com

© 2012 Venable LLP. This alert is published by the law firm Venable LLP. It is not intended to provide legal advice or opinion. Such advice may only be given when related to specific fact situations that Venable has accepted an engagement as counsel to address. ATTORNEY ADVERTISING.

[Click here to unsubscribe](#)

575 7th Street, NW, Washington, DC 20004

© 2012 Venable LLP | www.Venable.com | 1.888.VENABLE