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News

FTC Amends Appliance Labeling Rule

On New Year's Eve, the Federal Trade Commission (FTC) announced that it amended its Appliance Labeling Rule for the first time since the Rule was instituted in 1979. The changes streamline the reporting and testing provisions of the Rule, which require energy efficiency labels for major household appliances and other consumer products.

Among other things, the changes allow manufacturers to meet the FTC's reporting requirements by using the Department of Energy's (DOE) new web-based reporting system instead of submitting data separately to the FTC. The Rule also clarifies the DOE testing requirements that manufacturers must follow for obtaining the energy use information on their labels.

Other changes to the Rule require online sellers to post images of the EnergyGuide or Lighting Facts labels for products bearing those labels and require manufacturers to post the EnergyGuide and Lighting Facts labels for their products online. Finally, the FTC is changing the Rule's name to the "Energy Labeling Rule" to reflect the fact that the program's coverage has grown beyond traditional appliances.

According to the FTC's press release, the FTC is also seeking public comments on proposed changes to the EnergyGuide labels for refrigerators and clothes washers and is publishing updated comparative information on labels for other appliances.

[Click here](#) to read the FTC's press release and view the text of the amended Rule.

Analysis

What Does "As Seen On TV" Mean, Anyway?

Retailers love to carry "As Seen On TV" products because they know that these products have been widely advertised on TV and come with built-in consumer awareness, writes Venable partner **Gregory J. Sater** in the January issue of *Electronic Retailer* magazine.

You might wonder, Sater writes, if anyone has ever been sued for using the "As Seen On TV" logo while actually doing little or no TV advertising to support the product. The answer is yes, and Sater's column analyzes three such lawsuits and what they mean for the use of "As Seen On TV."

[Click here](#) to read Sater's article and learn how those lawsuits, which were brought by competitors, could serve as a blueprint for legal action by retailers or others.

Color or Colour? Color Trademarks Treated Differently in US and EU

In 2008, Cadbury received an EU trademark for its distinctive purple wrapper color (Pantone 2685C), and the award for the trademark recently survived a challenge by a competitor. Venable partners **Jacqueline Levasseur Patt** and **Janet F. Satterthwaite** write in the December 2012 edition of *House Marques* that it is possible to obtain a trademark for use of a color in the United States, but the bar is set very high.

The article discusses the requirements for trademarking a color in the United States and looks at recent

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Honors and Awards

Top ranked in *Chambers USA*
2012



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



Top-Tier Firm *Legal 500*



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[www.Venable.com/Advertising-
and-Marketing](http://www.Venable.com/Advertising-and-Marketing)

cases dealing with the issue.

[Click here](#) to to read the article and learn why it matters whether more than the sole of a shoe is red.

FTC COPPA Rule Updates Take Effect

On January 1, the changes to the Children's Online Privacy Protection Act (COPPA) Rule announced by the FTC in late December took effect. The COPPA Rule imposes a variety of privacy requirements on "operators" of websites and online services that are "directed to children" under 13 or have actual knowledge that they are collecting "personal information" from children.

In a recent post to Venable's advertising law blog, www.allaboutadvertisinglaw.com, Venable attorneys [Emilio W. Cividanes](#), [Stuart P. Ingis](#) and [Julia Kernochan Tama](#) explain what websites and services subject to the Rule must do to ensure compliance with the updated Rule.

[Click here](#) to read the post on www.allaboutadvertisinglaw.com.

[Click here](#) to read the text of the amended Rule.

FTC Report Says Apps for Kids Don't Pass

In a report published on December 12, the FTC revealed the results of a survey that compared the actual practices of mobile applications for children to the apps' accompanying disclosures.

Venable attorneys [Kelly A. DeMarchis](#) and [Kristen R. Brown](#) write in a recent post to Venable's advertising law blog, www.allaboutadvertisinglaw.com, that the FTC expressed disappointment that many children's apps collect and transmit children's information from mobile devices without disclosing any of these practices to parents prior to the downloading of the app.

According to DeMarchis and Brown, the report also reveals that the FTC plans to launch multiple investigations of mobile app developers to determine whether the app developers are in compliance with the COPPA Rule and whether they are engaged in any unfair or deceptive trade practices in violation of the FTC Act.

[Click here](#) to read DeMarchis and Brown's blog post and learn what steps mobile app developers should take to ensure their kid-focused apps comply with relevant federal laws and regulations.

Upcoming Events

[Affiliate Summit West 2013 - Las Vegas](#)

January 13-15, 2013

Join Venable attorneys at this conference which provides educational sessions on the latest affiliate-marketing industry issues and fosters a productive networking environment for affiliate marketers.

To register, please [click here](#).

[Electronic Retailing Association Network LA: Beach Access - Santa Monica, CA](#)

January 16, 2013

Venable is a proud sponsor of this event. Please join us and direct-to-consumer marketing leaders for an evening of connections and cocktails.

For more information, please [click here](#).

[State of the Net Conference - Washington, DC](#)

January 22-23, 2013

Venable is sponsoring this conference, which is the largest information technology policy conference in the U.S. and the only one with more than 50 percent of Congressional staff and government policymakers in attendance. Join the attorneys of Venable's [Privacy and Data Security Group](#) at this important event.

[Click here](#) to learn more.

[Electronic Retailing Association Great Ideas Summit - Miami](#)

February 25-27, 2013

Venable is proud to sponsor the VIP Reception of ERA's Great Ideas Summit 2013. Also, please join

Venable partner [Jeffrey D. Knowles](#) as he presents the educational session "Up, Down and Sideways - How Enforcement Actions Traverse the Value Chain" on Tuesday, February 26. Meet the attorneys of [Venable's Advertising and Marketing Group](#) on the show floor at booth #304.

[Click here](#) to learn more about ERA GIS 2013 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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