

ADVERTISING, MARKETING, AND PROMOTIONAL LAW

Practice

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The Advertising, Marketing, and Promotional Law Practice Group provides clients with practical guidance on advertising, marketing, and promotional matters. We strive to help manage risks related to consumer legal actions or social media activity, competitors' potential claims, and regulatory actions. In a world where advertising and marketing strategies and platforms may evolve faster than the laws that govern them, our experienced team helps clients stay up-to-date and informed, allowing them to strategically and timely meet their goals.

Our team regularly advises clients on all issues relating to the creation, structure, production, implementation, and defense of advertising, marketing, and promotional campaigns across all types of media. Our attorneys are highly skilled in competitive advertising issues, and regularly assist clients in taking action against third-party advertisements and promotional materials.

Supplemented by our firm's complementary practice areas, including technology transactions, food and beverage, consumer products, intellectual property, media, and privacy, our team offers a comprehensive approach whenever needed. We have experience in a broad range of industries, including restaurants, retail, hospitality, fitness, healthcare, personal care products, consumer packaged goods, cosmetics, dietary supplements, jewelry, and home goods.

Our team routinely provides clients and their marketing teams with guidance on:

Advertising and Marketing: General Counseling

- Reviewing all types of advertising and promotions across all forms of media
- Substantiation of claims, including FDA and FTC regulated claims
- Regulated industry matters, including at the state and federal level, as well as through self-regulated industry agencies
- Required and recommended disclaimers and disclosures
- Marketing to children, including COPPA related requirements
- Media-platform specific matters
- Compliance with CAN-SPAM Act
- Advice on intellectual property related concerns
- Negotiating, preparing, and reviewing agreements with domestic and international marketing agencies, as well as licensing, joint marketing, and co-branding agreements

Contests and Sweepstakes

- Development and implementation of contests and sweepstakes
- State registration and bonding requirements

- Preparation and review of rules, disclosures, and promotion materials
- Post-promotion advice regarding prize fulfillment and preparation of releases, including winner and guest affidavits
- Advice on international contests and sweepstakes matters

Promotional Programs

- Negotiating, preparing, and advising on cause marketing and charitable initiatives
- Structure and implementation of loyalty programs
- Coupon review, including advice on dissemination through varied platforms
- Structure and implementation of text message promotions
- Advice on social media campaigns, general social media asset management, and crisis response
- Negotiating, preparing, and reviewing sponsorship and endorsement agreements

Packaging and Labeling

- Reviewing and providing guidance on all types of packaging and labeling materials
- Navigating the requirements imposed by federal and state regulations, including the Food, Drug, and Cosmetics Act, Federal Trade Commission guidelines, Federal Communications Commission regulations, the Fair Packaging and Labeling Act, California's Proposition 65, and consumer product safety regulations
- Trade dress clearance

Regulatory and Self-Regulation Agency Enforcement and Litigation

- Responding to enforcement and warning letters from both the FTC/FDA
- Representing clients before the National Advertising Division ("NAD") and federal courts