

PRACTICE CONTACT

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ADVERTISING, MARKETING, AND CONSUMER PROTECTION

We assist our clients structure and implement marketing campaigns and other promotional activities in compliance with the following statutory and regulatory obligations: Federal Trade Commission, Federal Communications Commission, and state law regulations and guidelines that affect advertising (including online advertising), order fulfillment, outbound and upsell telemarketing, text messaging, email marketing, other forms of new media marketing, and similar consumer protection issues.

Our attorneys have substantial experience in helping retailers establish and operate gift card and customer loyalty programs and in providing guidance on appropriate disclosures and disclaimers, restrictions on card expiration and loss of value, escheat issues, and terms and conditions governing program participation. We have drafted and negotiated a variety of related third-party agreements for services such as gift card production, transaction processing, and distribution to retail channels. Our experience also extends to the unique joint marketing, customer service, and contracting issues that are raised by private label and affinity credit card programs.

We frequently work with our clients on promotional contests and similar vehicles. Our attorneys counsel clients on the requirements for alternate means of entry, adequate disclosure of prize awards and chances of winning, and appropriate disclaimers. We also have addressed infomercials, direct mail campaigns, telemarketing, rebates, and merchandise return policies.

On behalf of our clients, our attorneys have negotiated contracts for advertising in a variety of media, including on-line advertising, advertising networks, mobile applications, commercial use of social networks, text messaging, and other new media. We also have negotiated contracts for the third-party provision of email marketing and call center services, as well as contracts for the services of actors, musicians, models, and other talent in connection with marketing initiatives.

In addition, we have helped clients respond to investigations and enforcement actions brought by the FTC and state attorneys general, including claims of deceptive and/or unfair trade practices. Our attorneys have assisted clients in responding to consumer complaints regarding particular marketing programs.