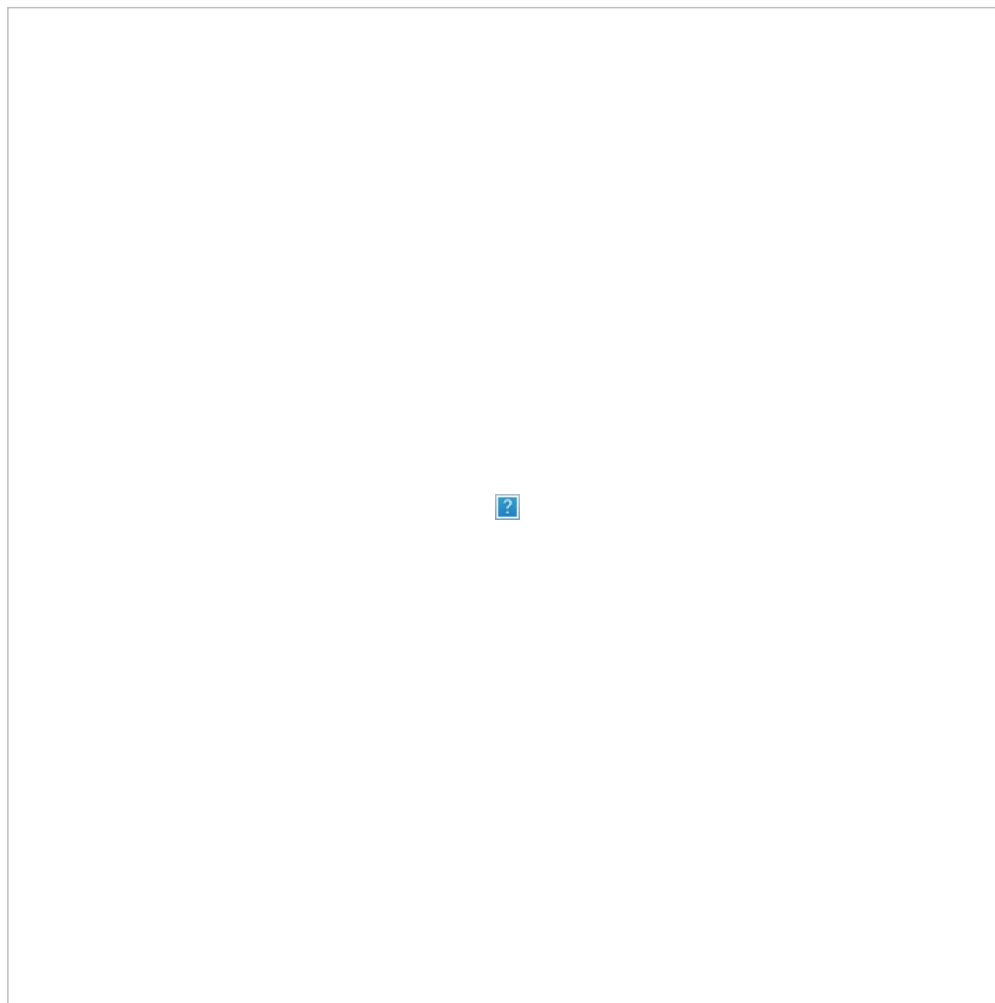


Ad Law News and Views - 2022 Back to School Issue

September 21, 2022

2022 Back to School Issue

Summer vacation is over and Ad Law News and Views is back!



On this, the [21st night of September](#), summer hours are over, the kids are back at school, and many of us are back working in the office more often than not. It's time to hunker back down and get busy again. Which means we are back with our annual "Back to School" issue.

NEW APP AND OTHER RESOURCES

Ad Law Access App

You may have missed the launch of the *Ad Law Access* app earlier this year. The app is a one-stop

portal that provides updates and analysis on advertising, marketing, and privacy/data security law. It is available as a free download in the [Apple App Store](#) and [Google Play](#), and can be used on iPhone, iPad, and Android devices. The app builds on the other advertising and privacy resources produced by the group:

- [Ad Law Access Blog \(Subscribe\)](#) – Where we regularly cover advertising and privacy law developments
- [Ad Law Access Daily Podcast](#) – Hosted by Simone Roach, the Ad Law Access Daily podcast is available from a number of services ([Apple](#), [Spotify](#), [Google Podcasts](#), [SoundCloud](#) and [many other podcast services](#)).
- [Advertising and Privacy Law Resource Center](#) – Addresses key legal topics relevant to advertising and marketing, privacy, data security, and consumer product safety and labeling.
- [Ad Law News and Views Newsletter \(Subscribe\)](#) – Compiles all of our recent Advertising Law news and analysis in one place.
- [State Attorneys General Map and News](#) – Our State Attorneys General practice provides a daily news feed on what is happening at the state level and a map of AGs

You can find all of these resources and more on our [Linktree](#).

MOST POPULAR BLOG POSTS OF THE SUMMER

[Court Holds that Website Accessibility Doesn't Require 100% Compliance](#)

If you've ever received a demand letter alleging that your company's website isn't accessible to the blind or visually-impaired, it's likely that the claimant's attorney attached a report outlining a number of accessibility errors on the website. That's not surprising because most – if not all – major websites are likely to have some errors. But while some errors may affect a blind or visually-impaired person's ability to navigate the website, others do not. One question that hasn't been previously addressed by any court, though, is whether 100% accessibility is necessary to avoid liability under the ADA. A California district court recently opined that it is not. This is complicated by the fact that there are no government issued regulations relating to what standard of accessibility should even be considered. By default, the few courts that have required that a company ensure that its website is accessible to blind or visually-impaired people using assistive technology have looked to the World Wide Web Consortium's Web Content Accessibility Guidelines.

[H&M Sued Over Sustainability Claims](#)

Sustainability continues to be a hot topic in the fashion industry, both in ads and in lawsuits related to those ads. Last month, a plaintiff filed a proposed class action against H&M arguing that the company makes various false claims about the sustainability of its products. The lawsuit seems to be prompted by a June 28, 2022 [article](#) published in *Quartz* with the results of an investigation which allegedly demonstrated that "H&M showed customers environmental scorecards for its clothing that were misleading and, in many cases, outright deceptive."

[The FTC's Privacy Rulemaking: Broad and Far-Reaching, but Unlikely to Lead to a Rule Anytime Soon](#)

On August 11, the FTC finally launched its “commercial surveillance and data security” rulemaking after many months of hype and speculation about the FTC’s ability to address consumer privacy through its “Mag-Moss” rulemaking authority. It did so by releasing (by 3/2 vote) an [Advanced Notice of Proposed Rulemaking \(ANPR\)](#) – the first step in a Mag-Moss rulemaking – and holding a press conference featuring Chair Khan, Commissioners Slaughter and Bedoya, and senior FTC staff.

California Attorney General’s First CCPA Settlement Sends Strong “Signals” About Do Not Sell Enforcement

Warning that “[t]here are no more excuses,” California Attorney General on August 24, [announced](#) the first public settlement under the California Consumer Privacy Act (CCPA). The [settlement order](#), which the court approved on the same day, requires beauty-product retailer Sephora, Inc., to pay a \$1.2 million civil penalty to resolve allegations that the company failed to disclose to consumers that it was selling their personal information, and failed to process consumer requests to opt-out of sale by either offering a “Do Not Sell My Personal Information” link or via user-enabled global privacy controls. The order also requires Sephora to implement, assess, and report on a CCPA compliance program, in addition to other injunctive terms.

CPRA Update: What is a “Contractor?”

The California Privacy Rights Act (CPRA), effective January 1, 2023, adds “contractors” to the list of entities that a business may entrust with customer data. So what is a “contractor?” And how are “contractors” different from other entities described by California privacy law, such as “service providers” or “third parties?”

NAD Advises Better Disclosures for #1 Claim

Twilio advertises that its customer data platform is the “#1 CDP” and discloses that the claim is based on 2020 market share, as measured by the International Data Corporation. Adobe challenged the claim, arguing, in part, that the 2020 IDC Report doesn’t reflect the current landscape and, even if it did, that Twilio’s disclosures were insufficient. NAD’s analysis includes tips for anyone looking to make #1 claims.

NAD Combs Through Saturday Night Hair Claims

My law firm picture was taken on a Tuesday morning, but I’ve always lamented that the photographer wasn’t available to take it on a weekend, which would have given me a better opportunity to showcase my Saturday night hair. In case you think that’s something only I worry about, take note that questions related to the ease of creating such an enviable hair style recently made their way into an advertising dispute between Dyson and SharkNinja.

MOST POPULAR PODCAST EPISODES OF THE SUMMER

- [NAD Combs Through Saturday Night Hair Claims](#)
- [FTC Announced Third Right to Repair Action in Three Weeks](#)
- [“Notice at Collection” and Privacy Policy Requirements Under the CPPA’s Draft Regulations](#)
- [Chelsea Handler Sues ThirdLove Over Endorsement Deal](#)

- [How To Protect Employee/HR Data and Comply with Data Privacy Laws](#)
- [Man Sues Bass Pro Over Lifetime Guarantee on Socks](#)
- [Readout on House Privacy Hearing: Wide Attendance, Lots of Issues, Full Steam Ahead](#)
- [CARU's First Decision on "Gender-Restrictive" Ads Also Addresses Jurisdictional Issues](#)
- [Carnival Cruise Brings Multistate Data Breach into Port](#)

RECENT BLOG POSTS

- [NAD \(Still\) Doesn't Trust Trustpilot Reviews](#)
- ["Dark Patterns" Loom Large in New FTC Staff Report](#)
- [FTC Addresses Supplier Due-Diligence for Made In USA Claims](#)
- [State Attorney General Price Gouging Claims Find New Life](#)
- [When Monsters Cross a Line \(Claim\)](#)
- [State AGs: DOT Needs an On-Time Departure](#)
- [The FTC's Mission Statement for 2022-2026: "Legitimate Business Activity" Still Missing in Action](#)
- [FTC and Six States Take Action Against Fake Reviews and Claims](#)
- [FTC Updates - Intuit, Mag-Moss, and More](#)

UPCOMING EVENTS

September 29, 2022

[Operationalizing Adtech Privacy Compliance: Understanding the IAB Multi-State Privacy Agreement](#)

Click [here](#) to register

Strategies for Protecting Artificial Intelligence through Intellectual Property

Register [here](#).

October 12, 2022

[2022 Election Outlook: An In-Depth Analysis of This Year's House and Senate Races](#)

Register [here](#).