

Ad Law News and Views - April 18, 2020

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RECENT NEWS

Be Careful About Changing Refund Policies Under Covid-19

As consumers look for refunds, many businesses are reviewing their policies to determine whether there are creative ways they can stop cash from going out the door. On March 12, for example, StubHub announced that consumers had the option of either getting a refund for a cancelled event or a coupon for 120% of the original ticket price. Apparently, the option was well-received, and many consumers opted for the coupon.

FTC Guidance on AI: Don't Surprise Consumers – Or Yourself

FTC Bureau of Consumer Protection Director Andrew Smith [published](#) some helpful pointers for companies that are developing or using AI to support consumer-facing services. These pointers are drawn from past FTC enforcement actions, reports, and workshops. They boil down to one overarching message: Companies shouldn't surprise consumers – or themselves – in how they develop or use AI.

FCC/FTC Stake out Aggressive Robocall Position, Tell Gateway VoIP Providers to Block COVID-19 Robocalls – or Be Blocked Themselves

The FTC and FCC have taken a number of actions to stem unlawful robocalls generally and, during the COVID-19 pandemic, [to stem harmful and deceptive calls](#) that seek to exploit the COVID-19 crisis. Even amid the backdrop of their long-standing commitment, the agencies' most recent action stands out as an aggressive new approach to unlawful calls.

TCPA Tracker - April 2020

Our [Telephone Consumer Protection Act](#) Tracker Newsletter is produced as a collaborative effort between Kelley Drye's [Litigation](#), [Advertising/Privacy](#), [Communications](#) and [Insurance Recovery](#) practices to help you stay current on TCPA (and related) matters, case developments and provide an updated comprehensive summary of TCPA petitions pending before the FCC.

Stay connected in 2020 by subscribing to the [Ad Law Access blog](#) by [email](#) or [RSS feed](#).

KELLEY DRYE'S COVID-19 RESPONSE

To help clients navigate the new challenges of COVID-19, Kelley Drye has produced a number of

articles, webinars, and blog posts that cover a range of topics and collected them on the [COVID-19 Response Resource Center](#).

PODCASTS

This week saw two new episodes of the Ad Law Access podcast, including our first related to the COVID-19 pandemic:

Price Gouging

As COVID-19 continues to dominate the news and the effects sweep across the country and globe, one of the important issues that directly affects companies and consumers alike is price gouging. In fact, the AGs in 32 states sent a [letter](#) to online retail platforms (Amazon, eBay, Craigslist and others) urging them to do more to crack down on price gouging. Listen on [Apple](#), [Google](#), [SoundCloud](#) or [Spotify](#)

Update on ATDS Definition Under the TCPA

Recently the Second Circuit Court of Appeals issued an opinion providing its definition of an automatic telephone dialing system (ATDS) under the TCPA. That sets up a severe split of the Circuits with the Second and Ninth Circuits taking a broad approach while the Third, Seventh, and Eleventh Circuits have charted a narrower standard for defining an ATDS. Listen on [Apple](#), [Google](#), [SoundCloud](#) or [Spotify](#)

The Ad Law Access podcast provides audio updates on advertising and privacy law trends, issues, and developments. New episodes will be announced at [AdLawAccess.com](#); the Ad Law Access podcast is available now through [Apple](#), [Spotify](#), [Google Podcasts](#), [SoundCloud](#), and [wherever you get your podcasts](#).

UPCOMING EVENTS

ABA SPRING MEETING 2020

Kelley Drye lawyers are taking part in the American Bar Association's Antitrust Section Spring Meeting, this time virtually. This year, there is no charge!

The Antitrust Section's first ever Virtual Spring Meeting officially kicked off yesterday and for the next two weeks, there will be a wide range of new content, live streamed programs, and networking events available via [www.ourcuriousamalgam.com](#).

You can find Kelley Drye attorneys at the following sessions:

Briefing with the State Enforcers

April 21, 2020

12:00 PM – 1:00 PM

State Attorneys General play a crucial role in enforcing state and federal antitrust and consumer protection laws. Join partner [Bill MacLeod](#), and other panelists who represent antitrust and consumer protection bureaus from across the country as they discuss recent enforcement activities and the ongoing missions of state enforcement agencies.

[Event Website](#)

Cocktails for Consumer Protection Virtual Reception

April 21, 2020

2:00 PM – 3:00 PM

Does your area of concentration include privacy law and/or consumer protection? Are you interested in learning more about this rising practice area? Join host and Antitrust Section Consumer Protection Officer [Alysa Hutnik](#), and other Virtual Spring Meeting attendees at this reception and learn more.

[Event Website](#)

What to Expect in FTC CP Enforcement

April 30, 2020

12:00 PM – 1:00 PM

From record fines to novel theories of harm, the FTC has pursued vigorous consumer protection enforcement under Chairman Simons. Join partner [Christie Thompson](#) and other panelists for a discussion on recent FTC enforcement and priorities, including impacts, if any, of COVID-19 on enforcement priorities, as well as in the areas of privacy, data security, marketing, advertising, and fintech, consider whether FTC enforcement has expanded in reach, and implications for future CP enforcement.

[Event Website](#)

For the full lineup, please visit ourcuriousamalgam.com.

Getting Back to Work Webinar

The coronavirus threat will still be active when many employers begin to return their employees to the job. What will you do when employees refuse to return? When some have been sick but not diagnosed? When social distancing measures remain in place? When some parts of the country (or even your city) are “more open” than others? What should employers do to prepare?

In Part I of this two-part series, L&E Group co-chairs [Barbara Hoey](#) and [Mark Konkell](#) will guide employers through the snares of legal, logistical and practical considerations as the nation returns to work.

[Register Here](#)

WEBINARS

This year, in conjunction with the launch of the [Advertising and Privacy Law Resource Center](#), we have have been holding a series of webinars:

REPLAYS:

Replay recent webinars below or find these and other webinars on the [Advertising and Privacy Law Resource Center](#):

[Advertising 101 Webinar](#)

[Privacy 101 Webinar](#)

[Influencer 101 Webinar](#)

Pretty Up: Cosmetics False Advertising Litigation Trends and Marketing Compliance Webinar

IN CASE YOU MISSED IT

[No Delay? What To Expect on CCPA Enforcement Timing](#)

[CCPA Litigation Round-Up](#)

[In Non-COVID-19 News, New York SHIELD Act Takes Effect](#)

[NAD Releases Fast-Track SWIFT Process](#)

[States Place New Restrictions on Collection Efforts and Outbound Calls Amidst COVID-19 Pandemic](#)