

Ad Law News and Views - April 2026

April 30, 2026

With spring conference season underway, April has been a month of growth and connection. Our team has been active—hosting and attending industry events, engaging with clients, and staying on top of legal and regulatory developments affecting our clients. These developments span a range of issues, from email marketing litigation and pricing practices to AI compliance and "Made in the USA" claims. Below are some recent highlights from our team:

- We've opened a new [San Francisco office](#), where privacy team members Kate Black and Céline Guillou are based. Kelley Drye's expansion to San Francisco reflects our continued commitment to serving our clients on the West Coast.
- We recently hosted a [healthcare privacy workshop in NY](#) on the growing risks in health advertising to help clients navigate the risks and rewards of health advertising in an increasingly strict enforcement environment.
- We also launched a [healthcare privacy page](#), bringing together key resources and timely updates in this fast-moving area of law.

UPCOMING WEBINAR

False Urgency, Real Risk: Navigating the Rise of Email Marketing Lawsuits

Tuesday, May 12, 2026 2:30 p.m. - 3:00 p.m. ET

The recent surge in email marketing lawsuits has put retailers and brands on high alert. Following the Washington Supreme Court's decision in the *Brown v. Old Navy* case, plaintiffs have filed more than 100 lawsuits alleging that a broad range of retailers across industries sent emails with subject lines that violate Washington's Commercial Electronic Mail Act ("CEMA") and similar statutes in other states. As litigation continues to evolve, the stakes remain high for companies that rely on email marketing to drive sales.

Join Kelley Drye Partners [Gonzalo Mon](#) and [Geoffrey Castello](#) on May 12 for a timely discussion unpacking this fast-moving litigation trend. This webinar will explore what plaintiffs' attorneys are focused on, what the latest legislative amendments mean for pending and future claims, and what companies can do now to assess risk and adapt their email practices.

Topics will include:

- The Washington Supreme Court's *Brown v. Old Navy* decision and its ripple effects
- Why subject line lawsuits have surged and spread to other states

- What subject lines are getting the most attention
Recent amendments to CEMA
- Practical steps companies can take now to mitigate risk in email campaigns

Register [here](#).

IN THE NEWS

IAB Health Privacy Insights

Partners Alysa Hutnik and Aaron J. Burstein, Special Counsel Alexander I. Schneider, and Senior Associate Andrea deLorimier authored the Spring 2026 edition of the IAB Health Privacy Insights Newsletter. This issue covers the increase in health-related advertising regulations. Specifically, the authors cover legislative developments in Connecticut and New York, and new regulations on “surveillance pricing.”

New Obstacles for Health Care: Federal and State National Security Regulations Increasingly Target Health Data

Partner Kate Black and Special Counsel Mason Fitch authored “New Obstacles for Health Care: Federal and State National Security Regulations Increasingly Target Health Data,” published by International Association of Privacy Professionals (IAPP). The article covers the current regulatory landscape of national security laws and how they apply to health-related data. Kate and Mason conclude with practical steps for companies to evaluate their compliance measures.

Donnelly McDowell Comments in POLITICO on Growing Industry Pressure to Regulate Food, Beverage, and Pharma

Partner and Advertising and Marketing practice chair Donnelly McDowell was quoted in POLITICO in their article, “RFK Jr. Has Turned Corporate America’s Name to Mud, POLITICO Poll Finds.” The article covers recent polling that indicates growing support for the Make America Healthy Again (MAHA) movement and legislative trends looking to regulate the food and beverage and pharmaceutical industries.

Laura VanDruff Featured on Our Curious Amalgam Podcast

Partner Laura Riposo VanDruff was a guest on Our Curious Amalgam, the podcast by the American Bar Association’s Antitrust Law Section. This episode, “Can a Price Be Put on Harm? FTC Monetary Remedies and the Data-Driven Economy,” covers how the FTC is pursuing monetary relief after the Supreme Court’s AMG Capital Management decision limited the FTC’s ability to seek monetary remedies under Section 13(b) of the Federal Trade Commission Act. They also discuss whether and how it might articulate clearer guidance for quantifying harm, and what companies should expect when facing privacy and data investigations by the FTC.

LATEST UPDATES

Game Company Hit with \$420+ Million False Advertising Verdict

Papaya offers mobile gaming apps in which players can compete for the chance to win cash prizes. It

advertised that players are “matched with other players within the same skill level” and that each game is “totally fair and skill-based.” Some players expressed their doubts, posting comments online in which they suspected that the company unfairly matched human players against bots. Papaya responded to many of these comments, but neither confirmed nor denied whether bots played against humans.

NAAG Annual Conference 2026: Pricing & Priorities

This April, State Attorneys General, their staff, and members of the public gathered to discuss a variety of topics at the National Association of Attorneys General (NAAG) Annual Conference. Panel topics included, among others, intoxicating hemp, addressing illegal sales of tobacco and nicotine products, combating online scams with AI, developments in state pre-merger notification laws, and addressing the opioid overdose problem in schools. We break down one panel in more detail below, “Behind the Price Tag: Giving Consumers Clarity in the Data Driven Pricing Ecosystem.”

Institute for Responsible Influence Launches Certification Program

Last year, NAD [released](#) its Influencer Trust Index: Consumer Insights 2025. Although the data showed high consumer engagement with influencers, it also showed that many consumers are suspicious of influencer campaigns. The primary driver of distrust is the feeling that some influencers aren’t genuine, honest, or transparent.

FTC Announces “Made in the USA” Sweep

In March, President Trump [issued](#) an executive order directing the Chairman of the FTC to prioritize enforcement of Made in USA claims. Last week, the FTC announced enforcement actions against three companies that allegedly misled consumers into thinking their products were made in this country. Here’s a quick overview of the FTC’s allegations and the settlement terms.

FTC Oversight Hearing: What Ferguson’s Testimony Means for AI, Pricing, and Privacy Compliance

On April 15, 2026, the Senate Commerce Committee held an oversight hearing with FTC Chairman Andrew Ferguson and Commissioner Mark Meador. The session opened with contrasting statements from Chairman Ted Cruz (R-Texas) and Ranking Member Maria Cantwell (D-Wash.) that framed the hearing’s central tensions and previewed key themes for privacy and compliance teams to watch.

“Surveillance Pricing”: Key Concepts, the Current Legal and Legislative Landscape, and Mounting Scrutiny

While proposed legislation across the country offers varying definitions of surveillance pricing, it is generally thought of as the practice of using consumer data, algorithms, and artificial intelligence to set individualized prices for goods or services based on an assessment of a specific consumer’s behavior and characteristics. This can include data such as browsing behavior, purchasing history, location, device type, and inferred willingness to pay. In theory, some retailers may deploy surveillance pricing to tailor prices to individual consumers based on predictions of what each consumer is likely to accept. It is also commonly referred to as personalized pricing, individualized pricing, behavioral pricing, and data-driven pricing. To fully understand surveillance pricing, it is useful to distinguish it from other pricing practices with which it is often confused.

AG CHRONICLES

Be sure to check out [AG Chronicles](#): a monthly newsletter breaking down State Attorneys General consumer protection issues and highlighting news from the states. You may subscribe [here](#).