

Ad Law News and Views - August 2026

August 26, 2026

This summer, our Ad Law team stayed busy both in and outside of the office—from hosting our annual Pride Receptions in New York and DC, celebrating and supporting the LGBTQ+ community, to welcoming our summer associates and giving them a taste of life at Kelley Drye. We also continued our Pie-a-Partner tradition, raising money for Legal Aid DC and having a little fun throwing pies at firm leadership along the way.

UPCOMING WEBINAR

Join Kelley Drye Special Counsel [Abby Stempson](#) and [Beth Chun](#), Senior Associate [Jenny Wainwright](#), and members of the Anti-Robocall Multistate Litigation Task Force for a timely discussion of the latest developments in robocall enforcement and regulation. The program will explore recent state attorneys general activity before the FCC, key takeaways from the recent National Association of Attorneys General Robocall Summit, and other developments shaping the robocall landscape. Our guest speakers are:

- Erin B. Leahy, Senior Assistant Attorney General, Ohio Office of the Attorney General
- [Tracy Nayer](#), Special Deputy Attorney General, North Carolina Department of Justice
- Michel Singer Nelson, Senior Assistant Attorney General, Colorado Office of the Attorney General

Register [here](#).

IN THE NEWS

[The Best Lawyers in America© Recognizes 7 Kelley Drye Ad Law Attorneys in 2027 Edition](#)

We are pleased to announce that seven attorneys from our Ad Law practice have been recognized in the 2027 edition of The Best Lawyers in America©, as part of the 59 Kelley Drye attorneys and professionals recognized across various practice areas. This highly respected referral guide is based on annual peer-review surveys, and those selected for inclusion are recognized for their outstanding reputations and excellence in legal work. Of the 58 Kelley Drye attorneys and professionals who made the list, 50 were recognized as “Best Lawyers,” and 9 were named “Ones to Watch.”

[3 Private Suits Test Influencer Ads As FTC Stays On Sidelines](#)

Partner Gonzalo Mon authored “3 Private Suits Test Influencer Ads As FTC Stays On Sidelines” published by Law360. The article discusses three recent cases at the National Advertising Division

that provide insights into different ways that influencer campaigns can be challenged in court. Gonzalo details cases against Gymshark, PetPivot, and Polymarket and concludes with steps brands can take to reduce risks associated with influencer marketing.

Surveillance Pricing Under the Microscope: What the New State Laws and Policy Scrutiny Mean for Business

Partner and Privacy and Information practice chair Alysa Hutnik and associate Joseph Cahill authored “Surveillance Pricing Under the Microscope: What the New State Laws and Policy Scrutiny Mean for Business” for The Legal Intelligencer. The article covers enforcement and legislation trends in the area of “surveillance pricing,” which is “a term often used to describe the practice of using an individual consumer’s personal or behavioral data to set or adjust a price specifically for that consumer or a narrow segment of consumers.” Alysa and Joe discuss enacted laws in five states, New York, New Jersey, Connecticut, Maryland and Vermont, and what these laws mean for businesses.

Gizmodo: What’s the Difference Between Surveillance Pricing and Dynamic Pricing?

Partner and State Attorneys General practice chair Paul Singer was quoted by Gizmodo in their article, “What’s the Difference Between Surveillance Pricing and Dynamic Pricing?” The article discusses the various types of pricing manipulation that companies use to change the price of goods based on customer data. Paul covers the differences between dynamic, surveillance, and personalized pricing, and how businesses can use data to set prices without deceiving customers.

Privacy Daily: California’s DROP Compliance Deadline

Partner Aaron Burstein was quoted in the Privacy Daily article, “CalPrivacy Head Says DROP Will Be Ready for Data Brokers Aug. 1.” The article explores California’s Delete Request and Opt-Out Platform (DROP) and the significant compliance obligations facing data brokers ahead of the August 1 deadline.

LATEST UPDATES

Our [Ad Law Access blog](#) is at the forefront of the legal and regulatory issues driving business risk and opportunity, providing timely analysis of the developments that matter most to businesses. Explore recent posts below and [subscribe](#) to receive these and other timely updates.

NAD Reminds AI Advertisers: Correlation Is Not Causation

A recent NAD decision involving SafelyYou, an AI-enabled fall detection and monitoring platform for assisted living and memory care facilities, highlights an important theme in AI advertising: proving that a technology is associated with positive outcomes is not the same as proving that the technology itself causes those outcomes.

FTC Announces Proposed Enforcement Policy Statement Regarding “Personalized Pricing,” Signals Potential Scrutiny of the Use of Consumer Personal Information in Pricing

The FTC announced that it was seeking public comment on a newly issued Proposed Enforcement Policy Statement Regarding Personalized Pricing, which seeks to describe current FTC Staff’s perspective on when personalized pricing may present deception and unfairness issues in light of the “rise of data-driven ‘personalized pricing’ [with] the potential to transform our history of relatively limited variation in pricing from one consumer to the next.” The Policy Statement acknowledges at the outset that the FTC lacks authority “to prohibit personalized pricing,” but previews an intent to “aggressively” enforce any related practices that violate Section 5 of the FTC Act, signaling heightened scrutiny of how businesses disclose and implement personalized pricing practices.

NAD Finds Hair Drying Claims Get Tangled Up in the Visuals

Dreame advertised that its Dazzle Hair Styler and the Miracle Pro Hair Dryer could both dry shoulder-length hair in two minutes. Dyson challenged three variations of the drying time claim that were paired with images of models drying hair that fell far longer than their shoulders. Dyson argued that consumers were likely to interpret the ads to mean that the products can also dry longer hair in two minutes.

State Telemarketing Update: What to Know About Changes Coming in Pennsylvania

Last month, Senate Bill 992 was signed into law in Pennsylvania, setting forth several revisions to the state’s existing telemarketing statute.

Notable amendments include a revised definition of “telephone solicitation” to expressly include ringless voicemail and text messages. The bill also replaces a previous carveout for instances when a call was made based on an “express request” by the called party, and instead implements a more prescriptive “prior express written consent” (PEWC) standard. The definition of PEWC adopted in the bill largely aligns with the federal TCPA rules. It retains, however, a separate existing carveout for calls or texts based on an established business relationship within the past 12 months.

FDA’s Proposed GRAS Rule: Mandatory Notifications, Expanded Scope, and Open Questions

Following through with long-stated intentions, FDA published a proposed rule that could fundamentally reshape how food substances reach the U.S. market under the Generally Recognized as Safe (GRAS) framework. Under the proposed rule, what has historically been a voluntary notification system would become mandatory, requiring companies to disclose their GRAS conclusions to FDA before—or shortly after—introducing substances into interstate commerce. The rule would also establish a streamlined version of the submission process for certain intended uses of substances already on the market.

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](#).