

Ad Law News and Views - October 2024

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IN THE NEWS AND LATEST UPDATES

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Kelley Drye to Attend ANA's 2024 Masters of Advertising Law Conference

The Association of National Advertisers is hosting the nation's leading advertising, marketing, promotions, and privacy law conference November 11-13 at the Fairmont Scottsdale Princess in Scottsdale, Ariz. If you plan to attend this conference, we would love to see you! Here is where you can find us:

- On Monday, November 11, [Gonzalo Mon](#) will present a session on the Basics of Advertising Law from 10:40 AM - 11:25 AM.
- On Tuesday, November 12, [Christie Thompson](#) will present a session on Cause Marketing from 1:30 PM - 2:00 PM.

State AGs Aim Spotlight on Robocall "Gateway" Service Provider

Combatting robocalls has been and continues to be an important area of enforcement for State Attorneys General, as we have [previously reported](#). On October 18, 2024, the Anti-Robocall Multistate Litigation Task Force (Task Force), comprised of 51 bipartisan State AGs, released a [notice letter](#) outlining concerns that a Florida-based company was "transmitting suspected illegal robocall traffic on behalf of one or more of its customers" and cautioning that the company "should cease transmitting any illegal traffic immediately." The letter, which was addressed to iDentidad Advertising Development LLC dba iDentidad Telecom (iDentidad), is illustrative of the collaboration not only among State AGs, but also with federal agencies and private industry, on the issue of robocalls.

CFPB Pushes Move to an Open Banking System with the Personal Financial Data Rights Rule and Sparks Immediate Court Challenges from Industry

On Tuesday, the Consumer Financial Protection Bureau (CFPB) released the final version of the [Personal Financial Data Rights Rule](#) that requires many financial institutions, credit card issuers, and other financial service providers that facilitate payments (including mobile wallets and payment apps) to support new open banking standards and make account records accessible and portable.

The CFPB uses the term “open banking” to refer to the ability of customers to share personal financial data between a network of entities.

Amidst AI Crackdown Hype, FTC Stakes Out Aggressive New Position on Unfairness and Means and Instrumentalities Liability

Much has already been said and written about the FTC’s recent enforcement initiative, dubbed “Operation AI Comply.” The coordinated sweep [announced last month](#) involved five separate FTC enforcement actions against companies using or claiming to use AI tools to enhance consumer goods and services. For example, as part of the sweep, the FTC targeted a company called [DoNotPay](#) that claimed its “AI Lawyer” services could substitute for a human lawyer and “replace the \$200-billion-dollar legal industry with artificial intelligence” – claims that we, as KDW attorneys, were glad to see were found not to be substantiated. The sweep also involved enforcement actions against three business opportunity providers that claimed their AI tools could help customers generate passive income via online storefronts.

Why Dissenting Statements by FTC Commissioners Matter

Last week, the FTC, by a 3-2 vote along party lines, adopted its [click-to-cancel](#) rule, which purports to make it easier to cancel gym memberships, streaming services, and the like. [We wrote about it [here](#).] The final rule will apply across the economy to any business that offers negative option plans (e.g., subscriptions) and would provide the Commission with the ability to obtain civil penalties from covered entities for any misrepresentation about the underlying product or service.

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