



Green Lights & Red Flags: FTC Rules of the Road for Advertising Law

Friday, May 19th, 2006

Seattle University School of Law
Sullivan Hall, Seattle, Washington

Program Highlights Include:

- **Keynote Speech by Rob McKenna- WA State Attorney General**
- **Comprehensive Guidance on FTC Advertising Law, Managing Direct Marketing Campaigns, Advertising Pre-Dissemination Check list, and Comparative Advertising Challenges**
- **5 hours of CLE Credit**



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Sponsored by the Federal Trade Commission and the Seattle University School of Law, **Green Lights & Red Flags: FTC Rules of the Road for Advertising Law** will feature an authoritative group of speakers, addressing the latest issues in Advertising Law.

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Friday, May 19th, 2006

Seattle University School of Law, Room C5

12th Avenue at East Columbia Street

Register online at:

<http://www.legalspan.com/seattleu/catalog.asp>

8:30 a.m. Registration & Continental Breakfast

9:00 a.m. Welcome

Brent Sanders, Senior Attorney – Microsoft Corporation

Chuck Harwood, Director, Northwest Region – Federal Trade Commission

**9:10 a.m. FTC Advertising Law – Understanding Advertising’s
“Rules of the Road”**

Lesley Fair, Senior Attorney, Bureau of Consumer Protection – Federal Trade Commission

Whether you are new to advertising law or a seasoned practitioner with years of experience, this educational and entertaining overview of advertising’s rules of the road can’t be missed. Topics include:

- Advertising Claims – express versus implied claims, the “net impression” standard, deception by omission, and how to use disclosures properly.
- Endorsements & Testimonials – what the law requires of consumer and expert endorsers.
- Claim Substantiation – what level of substantiation is sufficient for your ad and what constitutes “competent and reliable scientific evidence.”

10:00 a.m. Avoiding a Promotion Commotion

Kial Young, Attorney - Federal Trade Commission

Ron Urbach, Partner – Davis & Gilbert LLP

Do Not Call, CAN-SPAM, Do Not Fax – What can a direct marketer do? Learn from the experts on how to navigate state and federal regulations to ensure that your marketing promotions are compliant and effective. In addition to the Do’s and Don’ts of email, telemarketing, and fax, you will learn about regulatory guidelines and best practices for administering contests and sweepstakes, continuity programs, free offers, and rebates.

11:00 a.m. Break

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11:15 a.m. The Secure Entrepreneur: Data, Security, and Consumer Privacy

Julie Mayer, Attorney – Federal Trade Commission

Mike Hintze, Senior Attorney – Microsoft Corporation

It has been said that achieving data security and consumer privacy is a journey, not a destination. Our speakers will provide best practices to help you avoid, assess, and address a data security breach.

12:15 p.m. Lunch – Keynote Speaker

Honorable Rob McKenna – Washington State Attorney General

The Internet has opened an exciting new world of commerce, entertainment, and research. But, we also have learned that the Internet can have a dark side. More and more Americans are finding that their personal information -- social security numbers, bank and credit card balances, and buying habits -- is being gathered, sorted, bought, sold, and used in ways they never intended. We are fighting back! Hear how Washington Attorney General McKenna's programs for enhancing Internet safety and preventing identity theft are helping to make the Internet safe for our kids and safe for consumers so they have the confidence to make e-commerce prosper.

1:45 p.m. Keeping your Client Compliant: A Pre-Dissemination Checklist

August Horvath, Special Counsel – Heller Ehrman LLP

Make sure that your campaign hits its target. A "dotting the i's and crossing the t's" compliance checklist before the roll-out of your client's ad campaign.

2:30 p.m. Break

2:45 p.m. Comparative Advertising: NAD, Lanham Act and Class Actions

Andrea Levine, Vice President and Director, National Advertising Division – Council of Better Business Bureaus

John Feldman, Partner – Reed Smith LLP

Comparative advertising can be extremely effective in differentiating your products from your competitors. But as this form of advertising has become more widespread, there has been a corresponding rise in the number of comparative advertising challenges. Whether these actions are filed in the courts or before the National Advertising Division (NAD), the risk associated with managing and resolving comparative advertising cases has become greater. Advertisers also have to consider the risk of multiple class action lawsuits that can follow an adverse ruling. This session will trace these developments, discuss the pros and cons of filing a court action versus a challenge before the NAD, and will provide guidance and strategies for defense and settlement.

4:00 p.m. Adjourn

Faculty

Rob McKenna – Washington State Attorney General

Attorney General Rob McKenna is Washington's 17th Attorney General. As the state's chief legal officer, he directs 500 attorneys and nearly 700 professional staff. He is committed to providing statewide leadership in the battle against methamphetamine production, identity theft and, counterterrorism, and to protecting communities from sexual predators. He launched "Operation: Allied Against Meth" last year to support local law enforcement and bring statewide leadership and new resources to communities struggling to end the meth crisis in Washington. Attorney General McKenna also convened the first statewide Identity Theft Summit last fall, bringing together over 300 leaders from the public and private sector to discuss how to tackle what has become the fastest-growing crime in the United States.

McKenna received his J.D. from the University of Chicago Law School in 1988, where he was a member of the Law Review. He earned a B.A. in Economics and a B.A. in International Studies, both with honors, from the University of Washington. He began his legal career in 1988 at the Bellevue office of Perkins Coie, one of the nation's top 50 law firms. A committed community leader, McKenna has raised hundreds of thousands of dollars for the Eastside Domestic Violence Program and the Bellevue Schools Foundation. He is a Distinguished Eagle Scout and serves on the Executive Committee of the Chief Seattle Council of the Boy Scouts of America, as well as on the Board of Directors of the Bellevue Community College Foundation. He has been a member of Bellevue Rotary since 1993. McKenna, his wife Marilyn, and their four children reside in Bellevue.

John Feldman

John Feldman, who joined Reed Smith in 2005, practices in the intellectual property, advertising, marketing, promotion, and media law areas. He previously served as co-chair of the intellectual property group and practiced within the advertising and marketing law group of Collier Shannon Scott PLLC. He also works in trademark, copyright, and right of publicity counseling and litigation and represents clients before the National Advertising Division. Mr. Feldman has worked with advertising and promotion agencies and advertisers from a vast array of industries. His practice includes extensive work with children's advertising issues. He has chaired several Promotion Marketing Association initiatives concerning the Federal Trade Commission's regulation of advertising and promotion and is a director of the Promotion Marketing Association. Mr. Feldman is a magna cum laude graduate of Princeton University and a graduate of Cornell Law School.

Lesley Fair

Lesley Fair is a Senior Attorney with the Federal Trade Commission's Bureau of Consumer Protection. A recipient of the Paul Rand Dixon Award for Law Enforcement and the Commission's Award for Outstanding Scholarship, she has represented the Commission in numerous investigations of deceptive national advertising and brought the FTC's first Internet advertising case in 1994. Ms. Fair is a Vice-Chair of the Consumer Protection Committee of the American Bar Association's Section of Antitrust Law, is co-editor-in-chief of the ABA's *Consumer Protection Update*, and was co-author of the Federal Trade Commission chapter in the 2002 and 2003 updates of ANTITRUST LAW DEVELOPMENTS 5TH. On the adjunct faculty of the Catholic University Law School since 1984, Ms. Fair holds the title of Distinguished Lecturer. In 2003, she was named a Hearst Foundation Visiting Professional at the University of North Carolina School of Journalism and Mass Communication. Before coming to the FTC, Ms. Fair was law clerk to United States District Judge Fred Shannon for the Western District of Texas and served as staff counsel to the United States Court of Appeals for the Fifth Circuit in New Orleans. In addition, she practiced criminal defense law as a Clinical Fellow at Georgetown University Law Center, where she appeared before the Supreme Court of the United States in Murray v. Carrier. Ms. Fair is a graduate of the University of Notre Dame and the University of Texas School of Law.

Michael Hintze

Michael Hintze is a Senior Attorney in Microsoft Corporation's Legal and Corporate Affairs group. Mr. Hintze's work focuses on privacy issues – advising on the requirements of privacy and data protection laws worldwide. Michael also advises on other issues including online safety and the regulation of encryption. Prior to joining Microsoft in early 1998, Mr. Hintze was an associate with the Washington, D.C.-based law firm of Steptoe & Johnson LLP, where his practice focused on export controls and commercial matters for high technology companies. He joined the firm following a judicial clerkship with Justice Robert F. Utter of the Washington State Supreme Court. Mr. Hintze is a graduate of the University of Washington and the Columbia University School of Law, where he served as Editor-in-Chief of the Columbia Human Rights Law Review. He has published numerous articles on a wide range of subjects including online privacy, U.S. encryption regulations, and capital punishment.

Faculty

August Horvath

Mr. Horvath is a special counsel with Heller Ehrman LLP in New York, where he is a member of the Antitrust and Trade Regulation Practice Group. He has litigated and counseled broadly in both the antitrust and consumer protection fields, on matters relating to horizontal and vertical restraints, monopolization and attempted monopolization, price discrimination, false advertising, and unfair and deceptive acts and practices. He has practiced extensively before the Federal Trade Commission in both competition and consumer protecting matters; before the U.S. Department of Justice Antitrust Division; at the private bar in cases brought under the Sherman, Robinson-Patman, and Lanham Acts and numerous state UDAP laws; and before self-regulatory bodies such as the National Advertising Division and the Council of Better Business Bureaus. Mr. Horvath is currently Vice Chair of the ABA Antitrust Section's Consumer Protection Committee. He was principal writer of the *Consumer Protection Handbook*. Mr. Horvath obtained his J.D. from Harvard Law School in 1996 and a Ph.D. in Communication Theory and Research from the University of Southern California in 1993.

Andrea Levine

Andrea Levine is the director of the National Advertising Division (NAD) and a vice president of the Council of Better Business Bureaus. She leads a team of highly experienced lawyers who form a critically important part of the advertising industry's voluntary self-regulation system. Their role is to foster truth and accuracy in national advertising. She oversees an advertising monitoring and review process that has the confidence and cooperation of most of the nation's leading advertisers. NAD has resolved over 4,050 advertising cases over the past 32 years and 96 percent of the parties comply with NAD's recommendations, although the system operates without legal sanctions or regulatory authority. She served as an assistant attorney general for the State of New York for ten years. Ms. Levine received her Bachelor of Arts degree from New York University and her law degree from Brooklyn Law School.

Julie Mayer

Julie Mayer is a consumer protection attorney with the Federal Trade Commission, where she works in the FTC's Northwest Regional Office on consumer privacy, credit, and civil fraud matters. She has handled enforcement actions involving financial privacy and information security practices and has worked on consumer and industry outreach efforts involving these and related consumer protection issues. Ms. Mayer also coordinates the FTC's radio frequency identification (RFID) program, following an agency workshop she organized on RFID in June 2004. Prior to joining the FTC, Ms. Mayer was an associate with the Washington, D.C.-based litigation firm, Howrey Simon Arnold & White. She is a graduate of Cornell University and George Washington University Law School, from which she received a J.D. with honors in 1997.

Ron Urbach

Ron Urbach is the co-chair of Davis & Gilbert's advertising, marketing, and promotions law department. Recognized as one of the leading authorities on advertising and marketing law, Mr. Urbach counsels major brand owners and advertising and marketing agencies of every type and size. He has handled many of the most critical advertising and marketing practice cases in recent years, a number of which were joint FTC and/or multi-state actions. Mr. Urbach is general counsel of the Interactive Advertising Bureau and a member of the Legal Affairs Committees of the American Associations of Advertising Agencies and Promotions Marketing Association. Mr. Urbach graduated magna cum laude from Clark University and received his J.D. from Washington University School of Law in St. Louis.

Kial Young

Kial Young is an attorney with the Federal Trade Commission's Northwest Regional Office and previously worked in the Commission's Division of Advertising Practices in Washington, D.C. Ms. Young has represented the Commission in numerous cases involving deceptive advertising and civil fraud. She also has worked on administrative rule-making proceedings and Commission staff reports on topics including peer-to-peer file sharing and the marketing of entertainment violence to children. Ms. Young graduated summa cum laude from Yale University and received her J.D. from Stanford Law School. Before joining the FTC, she served as law clerk to New Hampshire Supreme Court Chief Justice David A. Brock and spent several years in private practice at Jenner & Block in Washington, D.C. She is a member of the Massachusetts Bar.

Registration

Payment Information

Standard Fee: \$125

Early Registration (before 4/15/06): \$110

Seattle University Alumni Fee: \$100

Seattle University Alumni Fee Early Registration (before 4/15/06): \$90

All cancellations and requests for refunds must be received by the Seattle University School of Law by May 5th, 2006. Thereafter, no refunds will be granted.

CLE Credit: 5 hours (no ethics)

Continuing legal education credit will be reported to the Washington State Bar Association by the Seattle University School of Law. Securing CLE credit for other states is the responsibility of the individual registrant; however, the CLE office will assist with this effort.

Sullivan Hall, Seattle University

Green Lights & Red Flags: FTC Rules of the Road for Advertising Law will be held at the Seattle University School of Law in Sullivan Hall, Room C5, located at 12th Avenue and East Columbia Street, Seattle, WA 98122. Maps and directions are available at:

<http://www.seattleu.edu/directions>

Register online at: <http://www.legalspan.com/seattleu/catalog.asp>

or return completed registration form and payment (make check payable to Seattle University School of Law) to the address below or fax your registration form to (206) 398-4092. For questions, contact S. James Rosenfeld, Director of CLE, at (206) 398-4092 or by email at rosenfeld@seattleu.edu

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Friday, May 19th, 2006, 8:30 a.m. – 4:00 p.m.

Registration Form

Registration Fee Enclosed: \$_____ SU Law year of graduation (if applicable): _____

Please be sure to provide your email address so we may inform you of any changes concerning this program.

Personal Information

Name: _____

Last

First

Middle Initial

Title: _____

Agency/Institution: _____

Address

Street: _____

City: _____ State: _____ Zip: _____

Phone: _____ E-mail: _____

Fax: _____ Bar No. (if applicable): _____

Return completed registration forms to:

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