

Legal Extranet

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United States

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General Legal Overview:

Advertising law in the United States encompasses several areas, including antitrust and unfair competition, as well as consumer protection, marketing and promotions, communications, and technology law. Intellectual property laws that govern the use of trademarks and copyrights are also central to U.S. advertising law. In the context of claims made by advertisers, both federal and state laws require that all advertising be true and not misleading or deceptive and that such claims be supported by adequate substantiation.

A vast body of federal, state, and local laws governs advertising law in the United States. At the federal level, the Federal Trade Commission (FTC) is the agency that enforces federal consumer protection laws that prevent fraud, deception, and unfair business practices. Depending on the media and the type of product for which advertising is conducted, other federal agencies have jurisdiction to promulgate and enforce regulations. For example, for advertising that is conducted over broadcast television and radio media, the Federal Communications Commission (FCC) has enforcement authority. Similarly, where the advertising promotes a cosmetic product or prescription drug, the Federal Food and Drug Administration (FDA) shares enforcement authority with the FTC. At the state level, the state attorneys general and consumer protection divisions enforce applicable state laws.

Basic Guide to Intellectual Property rights in the Territory:

Copyright

United States copyright law gives the owner of a work the exclusive right to reproduce, distribute, perform, display, or license his work. Copyright protects an author's rights in "original works of authorship." A person can breach an author's copyright in two ways: (1) direct copying, and (2) by creating a work that is "substantially similar" to a pre-existing work.

Copyright protection exists automatically the moment an author creates a work in fixed form. Since January 1, 1978, registration is not necessary, although it is required for filing a suit for infringement.

Due to various changes and amendments to the Copyright Act, duration of copyright protection depends on when the work was created. With the passage of the Sonny Bono Copyright Term Extension Act in 1998, copyrights are protected an additional 20 years.

In general, for works created after January 1, 1978, copyright now endures for the life of the author plus an additional 70 years. Works published before 1923 are in the public domain. The duration of copyright for works published between 1923-1977 depends on if they were registered, published, and published with notice. The duration of copyright for works-for-hire is generally shorter, 95 years from publication or 120 years from the date of creation.

In 1989, the United States joined the Berne Convention, which recognizes international protection for works created in other countries. Under the Berne Convention, the United States, like all signatories to the Convention, recognizes copyrighted works authored by nationals of other contracting countries.

Trade Marks

United States trademark law protects a person's rights in words, symbols, pictures, and trade dress that designate the source of goods or services. Trademarks are generally distinctive symbols or words that sellers affix to distinguish and identify the origin of their products. Trademark status may also be granted to distinctive packaging, color combinations, and sounds. The owner of a trademark has the exclusive right to use it on the product it was intended to identify and on related products. Service-marks receive the same protection as trademarks but distinguish and identify services rather than products.

Infringement occurs when a company uses another's protected trademark, trade name, or tagline in a way that results in a "likelihood of confusion."

Unfair Trade Practices, Passing Off, Unfair Competition etc.

The law of unfair competition is comprised of torts that cause an economic injury to a business through deceptive or unlawful business practices. State common law generally governs the law of unfair competition. If a claim involves trademarks, copyrights, and false advertising, federal law may apply. If there is a conflict between federal and state law, the state law may be pre-empted. Several states have enacted legislation that addresses unfair competition. Many states have enacted some form of the Uniform Deceptive Trade Practices Act, a model law that deals with unfair and deceptive acts.

"Unfair competition" often refers to actions that confuse consumers as to the source of the product. "Unfair trade

practices" comprises all other forms of unfair competition.

The most common examples of unfair competition are trademark infringement and misappropriation. Misappropriation involves the unauthorized use of another's intangible assets that are not protected by trademark or copyright laws. False advertising, "bait and switch" advertising, theft of trade secrets, trade label, and false representation of products or services also constitute unfair competition. Additionally, violation of a person's right of publicity is another common form of unfair competition. The right of publicity is the right of every person to control the commercial exploitation of his or her identity. Right of publicity is protected by state common law. Many states have enacted statutes that specifically recognize and protect a right of publicity. In some states, the right of publicity can be inherited by the heirs to a person's estate and endures for a statutorily limited period of time after death.

Passing off, also referred to as palming off, is recognized as a form of unfair competition. Passing off occurs when an advertiser, in connection with the marketing of goods or services, makes a presentation likely to mislead prospective purchasers by causing the mistaken belief that the advertiser's business is the business of the other, that the advertiser is associated with the other, or that the advertiser's goods or services are produced, sponsored, or approved by the other.

Direct Marketing Association

1120 Avenue of the Americas New York, NY 10036-6700 Telephone: 212.768.7277

Web link: www.the-dma.org

Major Networks

Each of the four major national television networks in the United States-- ABC, NBC, CBS, and FOX, have guidelines that they use to review ads before airing them and procedures to adjudicate formal challenges to such advertising. Advertisers must submit commercials, scripts, and storyboards in advance before an ad can be broadcast.

National Advertising Division

70 W 36th St., 13th Floor New York, NY 10018 phone: (202) 898-0089 fax: (202) 898-0159 e-mail: aaf@aaf.org

Web link: www.nadreview.org

The Children's Advertising Review Unit (CARU)

70 West 36th Street, 13th Floor New York, NY 10018 phone: (866) 334-6272 (ext.111) e-mail: caru@caru.bbb.org

Web link: www.caur.org

The American Advertising Federation

1101 Vermont Avenue, NW, Suite 500 Washington, DC 20005-6306 phone: (202) 898-0089 fax: (202) 898-0159 e-mail: aaf@aaf.org

Web link: www.aaf.org

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Activity	Collateral Gifts	
Country	United States	
Contact	Douglas J. Wood	
General legal framework	Advertising of collateral or free gifts is permitted as long as the offer is valid and will be honored and the terms of the offer are clearly and conspicuously disclosed. Any advertising that specifically labels a product or service as "free" is regulated by the FTC's Guide Concerning Use of the Word Free in Advertising. State court decisions that address deceptive offers involving free gifts or premiums often adhere to the same principles applied by the FTC and federal courts. General and broadly worded state unfair and deceptive acts or practices statutes could also apply.	
General self-regulatory framework	<ul style="list-style-type: none"> • The Better Business Bureau has a voluntary standard that applies to the advertising of a free product or service. Pursuant to these standards, the word "free" may be used in advertising when the advertiser is offering an unconditional gift. If receipt of the free good or service is conditioned on a purchase, the advertiser must disclose this condition clearly and conspicuously (not through the use of an asterisk and a footnote), the normal price of the good or service to be purchased must not be increased nor its quantity or quality reduced, and the free offer must be temporary (in a continuous combination offer, no part is free). In a negotiated sale, no "free" offer of another product or service should be made where the product or service to be purchased usually is sold at a price arrived at through bargaining, or where there may be a regular price but other material factors such as quantity, quality or size are arrived at through bargaining. • CARU has set forth standards that apply to the advertising of premiums to children. These standards take into account the sensitive and unique nature of the child viewer. CARU advises that if product advertising contains a premium message, care should be taken that the child's attention is focused primarily on the product. The premium message should be clearly secondary. Further, conditions of a premium offer in children's advertising should be stated simply and clearly in terms a child can understand. 	
Restrictions to the media	<i>Direct Mail</i>	Offers made via direct mail are often made to the specific individual to whom the mail is sent. If the offer is not transferable and only available to the person named on the mailing, the mailing must clearly disclose this fact.
	<i>E-mail</i>	In offers made via e-mail, it is acceptable to include the most important terms in the e-mail with other terms set forth on a webpage or website that is available via a link.
	<i>Web</i>	In offers made on websites, advertisers often include material terms in the banner ad or pop-up that mentions the offer, with all terms available via a prominently displayed link.
	<i>Radio</i>	A radio advertisement, like any other advertisement, must disclose the materials terms and conditions of a free offer. If a radio spot is very short, including the required disclosures is often a problem for advertisers. Nevertheless, the disclosures must be included.
	<i>SMS</i>	There are no special restrictions on free offers or premiums that are advertised via SMS. As a practical matter, if an advertiser advertises a free offer via SMS, the advertiser must consider how to fit the material terms and conditions in the small amount of space available via SMS.
	<i>TV</i>	Materials terms and conditions on a free offer may be disclosed by a voice-over or via disclosures that appear on screen, as long as the disclosures appear in text that is large enough to read and for a sufficient amount of time. Text that appears at the bottom of the screen is acceptable.
Last updated	17 December 2004	

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Subject	Gaming & Betting	
Country	United States	
Contact	Doug Wood	
General legal framework	Gambling in the United States is subject to legislation at both the state and federal level. An extensive body of federal and state laws bans gambling from certain areas, limits the means and types of gambling, and generally regulates gambling in various ways. The advertising of gambling and gambling devices is also subject to extensive regulation. The law in this area often raises First Amendment issues.	
General self-regulatory framework	The American Gaming Association (AGA) is a trade association that represents the commercial casino entertainment industry. The Association addresses federal legislative and regulatory issues. The AGA has a Code of Conduct for Responsible Gaming.	
Restrictions to the activity	Federal law generally gives the states authority to regulate gambling activities that occur within their borders. Each state defines the legal gambling age differently, with some states giving the same age to all types of gambling, while others have different age limits on different activities. Further, each state contains a statute that criminalizes gambling generally, with certain exceptions carved out in the criminal statute or by way of another statute. For example, in almost all states, it is legal to bet on horse races. Similarly, in almost all states, with limited exceptions (i.e. Nevada), it is illegal to bet on sporting events. With regard to the advertisement of gambling, it is often unclear whether a certain type of advertising is prohibited. The answer often depends upon the relevant facts and applicable law. The Supreme Court formerly took the position that, if the underlying conduct could be constitutionally prohibited by the state, the legislature was given considerable flexibility in choosing how to regulate the commercial speech related to the conduct. However, in <i>44 Liquormart, Inc. v. State of Rhode Island</i> , the Court retreated from this position. In <i>Liquormart</i> , the Court held that if a "less speech-restrictive policy" is available to a legislature to pursue its goals, that policy must be followed. Thus, state statutes that restrict or limit advertising related to gambling are usually measured in terms of whether the regulation is constitutional.	
Restrictions to the media	<i>Direct Mail</i>	The federal mail fraud statute has occasionally been invoked in connection with gambling. For example, if a plan to defraud is shown by mailings of false statements or material misrepresentations related to gambling, it may be possible for a consumer to allege that such mail fraud is a so-called 'predicate act' and therefore pursue a cause of action against the mailer for violation of the RICO statutes.
	<i>Web</i>	Current law prohibits the use of the Internet to engage in gambling activities related to sports betting. Under 18 U.S.C. § 1084, it is illegal to use a wire communication facility to transmit in interstate or foreign commerce bets or wagers, or information assisting in the placement of bets or wagers, on any sporting event or contest. The Internet is a "wire communication facility". Since the judiciary has viewed this language as being limited to gambling involving sporting events, a number of bills have been introduced into Congress to amend this statute to specifically prohibit Internet gambling enterprises. Prohibition or regulation of Internet gambling might also be based on other federal statutes.
	<i>Radio</i>	See television.
	<i>TV</i>	In <i>Greater New Orleans Broadcasting Association, Inc. v. United States</i> , the Supreme Court struck down a federal prohibition on broadcast advertising of casino gambling as applied to broadcasters in states where such gambling is legal. Based on this and other decisions of the Supreme Court, the FCC has determined that it is permissible to broadcast truthful advertisements for lawful casino gambling, regardless of whether the state in which the broadcaster is licensed permits casino gambling.
Upcoming changes	Several bills are currently pending at the federal level that would make Internet gambling illegal.	
Last updated	17 December 2004	

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Activity	Prize Promotions	
Country	United States	
Contact	Doug Wood	
General legal framework	Prize promotions in the United States include games of chance, or sweepstakes, and games of skill, or contests. Prize promotions are governed by federal laws and an extensive body of state laws. Under both federal and state law, games of chance and skill are not prohibited, but lotteries are prohibited. A lottery is generally defined as a promotion in which prize, chance, and consideration are present. In order for a promotion to be lawful, one of these three elements must be removed.	
General self-regulatory framework	There are several self-regulatory guidelines set forth by various trade associations that apply generally to prize promotions in the United States. There are also more guidelines that are specific to the media in which the prize promotion is advertised. • The DMA's guidelines address sweepstakes. • The Magazine Publishers of America ("MPA") has adopted a set of guidelines for managing sweepstakes promotions advertised in print media. The guidelines address four issues: general guidance concerning sweepstakes promotions, consumer protection disclosures, sweepstakes practices, and definitions. • The major broadcasting companies, ABC, NBC, CBS, and Fox, have adopted broadcasting guides that apply to the advertisement of prize promotions on their networks. • CARU addresses the use of sweepstakes when marketing to children in its self-regulatory guidelines. CARU's guidelines state "that care should be taken not to produce unrealistic expectations of the chances of winning."	
Restrictions to the activity	Both federal law and statutes in all fifty states prohibit the conduct of lotteries, except those operated by the states. Federal law and most states follow the standard lottery rule, which defines a lottery as a promotional scheme in which the three elements of prize, chance, and consideration are present. In games of chance, if there is a purchase method of entry (i.e. if a person is automatically entered into a promotion when they buy a certain product), there must be an alternate, non-purchase method of entry. In games of skill, the element of skill must be "bona fide" such that skill determines the final result. A skill contest is not a lottery because the winner is not determined by chance (i.e. a random drawing) but rather based on a predetermined criteria. While all states prohibit requiring an entry fee to enter a sweepstakes, some states also prohibit requiring an entry fee to enter a contest. In addition to the basic restrictions on how games of chance and games of skill are structured, all states impose restrictions on sweepstakes and contests, including registration and disclosure requirements, and may even regulate what may be awarded as a prize. Many states have also enacted statutory restrictions in connection with prize promotions used as promotional tools, either in general or with respect to a particular industry, such as retail gasoline sales or sales of vacation properties. All prize promotions must have complete official rules that set forth the terms and conditions of the promotion. All advertising for any prize promotion must set forth the material terms applicable to the promotion, also known as "abbreviated" or "short" rules, which generally include a disclosure that no purchase is necessary to enter, the start and end date, the eligibility requirements, and a reference to where people can access the complete rules for further details. Complete rules for any promotion must include additional disclosures and information, including a full description of how to enter, a full description of the prize offered, the approximate retail value of the prize(s), and the eligibility requirements, in addition to standard disclosures regarding liability of the sponsor, publicity issues, and how entrants can obtain the names of the winner or winners.	
Restrictions to the media	<i>Direct Mail</i>	Current federal postal laws make it a crime to send in the mail any publication that advertises any lottery, gift enterprise, or scheme offering prizes dependent upon chance, or containing any prizes awarded by means of any such lottery, gift enterprise, or scheme. Postal authorities are given authority not to process mail violating these restrictions and to issue a cease and desist order to prevent future violations. Lawful prize promotions conducted via direct mail often need additional disclosures. Certain states such as Colorado and Texas have statutes that require additional disclosures in direct mail promotions. The Federal Deceptive Mail Prevention and Enforcement Act imposes certain restrictions and disclosure requirements on sweepstakes mailings that contain entry materials (i.e. an entry card for the recipient to return). All such mailings must include a name removal system whereby individuals can request removal from mailing lists used for sweepstakes and contests. Further, a statement that no purchase is necessary must appear in the solicitation, on the order or entry form, and in the official rules. The Postal Service has stated that the mere payment of postage to send in an entry for a promotion is not sufficient consideration to convert a lawful sweepstakes into a lottery.
	<i>E-mail</i>	The advertising of prize promotions via e-mail is governed generally by traditional sweepstakes laws. Any e-mail advertisement that includes information about a sweepstakes must contain the abbreviated rules and a link to the full rules. Further, the

		e-mail must comply generally with the Can-Spam Act.
	<i>Web</i>	There are no specific rules or regulations regarding the advertising of prize promotions on the Internet. As a practical matter, sponsors of promotions that have an online method of entry are advised to include additional disclosures that relieve the sponsor of liability in the event entries are lost or other problems arise from technological problems. Further, online advertisements for any promotion must contain the abbreviated rules and a reference to where to find the full rules, or a link to the full rules.
	<i>Outdoor</i>	See press.
	<i>Press</i>	In all states, it is sufficient if print materials contain the abbreviated rules and a reference to where readers can find the full rules. In Florida, however, the relevant sweepstakes statutes specifically requires that all print materials that advertise a sweepstakes contain the complete official rules. Thus, in Florida, use of abbreviated rules in printed matter that advertises a sweepstakes, including magazine ads and posters, is not sufficient.
	<i>Radio</i>	Advertisements for any promotion advertised on the radio must contain the abbreviated rules.
	<i>TV</i>	FCC regulations and other federal laws prohibit advertising illegal lotteries on broadcast and cable television. Since lotteries other than the state lottery are illegal anyway, a sponsor of a promotion would not, presumably, attempt to advertise an illegal lottery. A determination of whether a program comes under the restrictions of this regulation is made on a case-by-case basis by the FCC. Advertisements for lawful promotions must contain the abbreviated rules and, if applicable, comply with network guidelines.
Restrictions to the public	<i>Children and adolescents</i>	• CARU addresses the use of sweepstakes when marketing to children in its self-regulatory guidelines. CARU's guidelines state "that care should be taken not to produce unrealistic expectations of the chances of winning."
	<i>Others</i>	Several states have enhanced penalties for deceptive prize promotions aimed at seniors.
Upcoming changes		Prize promotions laws in the United States are often updated and amended. Currently, there is an effort in Florida to strike the requirement of including the full rules in all printed materials advertising a sweepstakes.
Last updated		17 December 2004

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Subject	Alcohol	
Country	United States	
Contact	Doug Wood	
General legal framework	Alcohol advertising is regulated by both federal and state law. Primary federal regulatory authority over alcoholic beverage advertising is vested in the federal Bureau of Alcohol, Tobacco and Firearms of the Department of Justice ('BATF'). Every state also has laws that regulate alcohol and alcohol advertising. Regulations and laws vary by state and are enforced by State Liquor Control Boards. Most of these laws are antiquated and very complex.	
General self-regulatory framework	The alcohol industry has several industry organizations that are self-regulating. These organizations are generally specific to a certain type of alcohol. Distilled Spirits Council of the United States (DISCUS): DISCUS is a trade association that represents producers and marketers of distilled spirits in the United States. Some members are also producers and marketers of many beer and wine brands sold in the United States. DISCUS members have developed a Code of Advertising and Marketing Practices to provide guidance in the promotion of their respective brands. The Beer Institute: The Beer Institute represents the industry before Congress, state legislatures, and in public forums in the United States. The Beer Institute has a voluntary Advertising and Marketing Code that it encourages all brewers to consult and comply with when planning advertising. The guidelines apply to all advertising and marketing for beer beverages, even Internet marketing. The Wine Institute: The Wine Institute is the public policy advocacy association of California wineries and has issued its own Code of Advertising Standards.	
Restrictions to the activity	Alcohol distribution in the United States is subject to extensive laws and regulations, which are enforced at the federal, state, and local level. Federal and state law establishes a three-tiered distribution system for alcoholic beverages, composed of manufacturers, wholesale distributors, and retail sellers. Companies in each tier of this system must maintain commercial independence from companies in other tiers of the system. At the federal level, the BATF is a law enforcement agency within the U.S. Department of Justice that enforces federal laws and regulations relating to alcohol. Further, the FTC can take action if an alcohol ad is unfair or misleading. The BATF's advertising regulations address wine, distilled spirits, and malt beverages separately and require that certain information be included in alcoholic beverage advertisements. For all three types of beverages, the name and address of the advertiser and the class to which the product belongs must be provided. Wine advertising must state the type of wine and the designation, if any. Distilled spirits advertisements must also give the alcoholic content, the percentage of neutral spirits, and the name of the commodity from which it was distilled. Where an ad refers to a general line of products or all of the products of one company, only the name and address of the advertiser must be included in the ad. Consumer specialty items may only disclose the brand name of the product or the company name. Other rules require that mandatory advertising disclosures be conspicuous, legible or audible in the case of broadcast ads, and clear. Mandatory information for two or more products must be definitively separated from each other. Furthermore, in the case of signs, billboards and displays, ads must include the name and address of responsible parties, which information may be in a smaller type than the body of the ad. All alcoholic beverages must include the Surgeon General's warning. The use of false, misleading, and obscene statements in alcohol beverage advertising is prohibited. Additionally, there are several other content restrictions common to all alcohol advertising. Further, each class of alcoholic beverage has its own requirements. Other BATF regulations regulate marketing and merchandising of alcoholic beverages and comparative advertising. At the state level, all states have liquor control boards that oversee the enforcement of state statutes and regulations regarding alcohol control. Control states are those in which the state itself handles the sale and distribution of alcoholic within its borders. About one-third of the states are control states. Control states lead to an absence of retailer-placed advertising where the state is the sole retail seller. Certain states prohibit alcoholic beverage vendors from using premiums, gifts or sweepstakes to promote the sale or distribution of their products. Both federal law and the law of all states prohibit advertising or marketing alcoholic beverages to minors. At the state level, alcohol regulations are very specific and nuanced. For example, some states have regulations that prohibit the use of the name or image of Santa Claus or the Easter Bunny in advertising.	
Restrictions to the media	<i>Web</i>	In 1994, the FTC prepared a report on the status of self-regulatory efforts of the alcohol industry to prevent alcohol advertising to underage consumers. The FTC advised that Internet sites sponsored by marketers of alcoholic beverages should adopt access restrictions to minimize the likelihood of access by underage consumers. Every website sponsored by an alcoholic beverage manufacturer requires people to verify that they are at least 21 years of age before entering.
	<i>Outdoor</i>	Certain cities or counties have ordinances in place that restrict or prohibit the use of outdoor billboards that advertise alcoholic beverages. Two examples are Oakland, California and Baltimore, Maryland. State and local laws should be consulted before

		planning any outdoor advertising for alcohol.
	<i>Press</i>	Alcohol advertising is permitted in print media as long as the advertisements contain the disclosures required by the BATF's regulations, and any applicable state laws.
	<i>Radio</i>	See television.
	<i>TV</i>	The advertising of distilled spirits on television and radio, although not prohibited, has been the recent subject of review by the FCC, the FTC, and Congress. In 1996, DISCUS amended its Code and abandoned its former self-imposed ban on broadcast advertising, which caused protest from certain segments of the public and government. The new DISCUS Code allows for placing advertising in broadcast media "only where at least 70 percent of the audience is reasonably expected to be above the legal purchase age." Certain radio stations will accept alcohol advertising. The major television networks have guidelines that prohibit the advertising of alcoholic beverages, with exception of beer, wine, and certain malt-based beverages. Advertisements for distilled spirits and other hard liquors are not accepted. Cable networks do not apply such rules.
Restrictions to the public	<i>Children and adolescents</i>	It is not permissible to direct advertising for alcoholic beverages to minors.
Upcoming changes	Alcohol laws in the U.S., particularly state laws, are sometimes changed and amended.	
Last updated	17 December 2004	

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Subject	Tobacco	
Country	United States	
Contact	Doug Wood	
General legal framework	Tobacco advertising is highly regulated and unlawful in certain media. The FTC can take action if an advertisement for cigarettes, cigars, or a smokeless tobacco product is deceptive or unfair. The most current restrictions on tobacco advertising arise out of the Master Settlement Agreement (MSA) between the attorneys general of 46 states and the five major tobacco companies in the United States. The agreement imposes restrictions on the advertising and promotional activities of tobacco manufacturers. Much of the restrictions are aimed at preventing the marketing of tobacco products to children.	
General self-regulatory framework	Most of the larger tobacco companies in the United States, such as RJ Reynolds and Phillip Morris, have their own internal advertising and marketing codes that they follow. These codes are available on their websites.	
Restrictions to the activity	The FTC enforces various federal requirements mandating health warnings on advertising, point-of-purchase displays, and packaging of tobacco products. In cigar advertising, cigar companies are required to display certain Surgeon General warnings clearly and prominently on packages, in print ads, on audio and video ads, on the Internet, and on point-of-purchase displays. Under the MSA, the use of cartoon characters, but not human subjects (i.e. the Marlboro Man), in the advertising, promotion, packaging or labeling of tobacco products is prohibited. Tobacco companies cannot make payments to promote tobacco products in movies, television shows, theater productions or live performances, videos and video games. Cigarette brands cannot be named after recognized non-tobacco brand or trade names (i.e. Harley Davidson) or nationally recognized sports teams, entertainment groups or individual celebrities. The distribution and sale of non-tobacco merchandise with brand-name logos (caps, T-shirts, backpacks, etc.) is also prohibited. The MSA also bans manufacturers from distributing free samples of tobacco products, except in Adult-Only Facilities. The BATF implements laws relating to the packaging and sale of tobacco products. These statutes include a prohibition on the use of any "certificate, coupon, or other device purporting to represent a ticket, chance, or an interest in a lottery as an insert, marking or stamp on any package of tobacco products or cigarette papers or tubes. "Tobacco products" are separately defined as cigars, cigarettes, smokeless tobacco, pipe tobacco and roll-your-own tobacco. The BATF has consistently refused to permit the inclusion of any type of promotional game with tobacco products since it views such games as inducements to purchase and, hence, as consideration even though no purchases are required.	
Restrictions to the media	<i>Direct Mail</i>	The MSA bars the use of direct mail to offer or distribute apparel or other merchandise that bears a tobacco brand name or logo. This prohibition does not include tobacco products themselves or materials that serve to advertise tobacco products.
	<i>Outdoor</i>	The MSA bans all transit and outdoor advertising, including billboards, signs and placards larger than a poster in arenas, stadiums, shopping malls, and video game arcades. Poster-sized signs and placards can be placed in arenas, stadiums, malls and arcades, but must conform to the standards regarding the targeting of advertising to children.
	<i>Radio</i>	See television.
	<i>TV</i>	The US Code prohibits the advertising of "cigarettes and little cigars" on "any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission." This restriction does not apply to regular cigars. The major television networks do not accept advertising for cigarettes. Certain stations will accept advertising for cigars, pipe tobacco, and tobacco paraphernalia. Each network's guidelines should be consulted prior to producing any advertising.
	<i>Others</i>	Tobacco companies cannot advertise to minors. The MSA limits tobacco sponsorships to one per year and prohibits brand-name sponsorship of events with an intended audience that has a significant percentage of youth and sponsorship of events where any paid participants or contestants are youth.
Last updated	17 December 2004	

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Activity	Data Protection/Privacy	
Country	United States	
Contact	Doug Wood	
General legal framework	Data protection and privacy law in the United States are regulated by a complex body of federal laws. Certain states have laws that apply as well. Laws related to privacy are generally specific to the type of information to be protected, including financial information, health information, and information collected online.	
General self-regulatory framework	The Interactive Advertising Bureau ("IAB") enforces guidelines that requires its members to post clear privacy policies on their websites. That address certain issues. The Responsible Electronic Communication Alliance (RECA), comprised of fifteen e-mail service bureaus, has adopted standards for protecting consumer privacy in connection with e-mail marketing. The DMA has a Privacy Promise to American Consumers that seeks to "raise the bar" for privacy practices by ensuring that DMA members adhere to certain privacy practices. The DMA also has guidelines for the handling of regular mailing lists. These guidelines address general list transactions, the legal and contractual considerations that are involved in developing and selling a list, and list marketers' responsibility to ensure that the advertising that their lists are used to deliver is itself truthful and not deceptive.	
Restrictions to the activity	<p>Under the FTC Act, the FTC guards against unfairness and deception by enforcing companies' privacy promises about how they collect, use, and secure consumers' personal information. Financial Privacy: The "Gramm-Leach-Bliley Act" or GLB Act, includes provisions to protect consumers' personal financial information held by financial institutions. There are three principal parts to the privacy requirements: the Financial Privacy Rule, Safeguards Rule, and pretexting provisions. The GLB Act gives authority to eight federal agencies and the states to enforce the Financial Privacy Rule and the Safeguards Rule. These two regulations apply to "financial institutions," which include banks, securities firms, insurance companies, and other companies that provide many types of financial products and services to consumers. The Financial Privacy Rule governs the collection and disclosure of customers' personal financial information by financial institutions. It also applies to companies, whether or not they are financial institutions, who receive such information. The Safeguards Rule requires all financial institutions to implement and maintain safeguards to protect customer information. The Safeguards Rule applies not only to financial institutions that collect information from their own customers, but also to financial institutions that receive customer information from other financial institutions. The Pretexting provisions of the GLB Act protect consumers from individuals and companies that obtain their personal financial information under false pretenses, known as "pretexting." The GLB Act gives authority to eight federal agencies and the states to administer and enforce the Financial Privacy Rule and the Safeguards Rule. Health Privacy: Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule is a federal statute that protects the privacy of personal health information. "Covered entities" must comply with the requirements of the statute in connection with the collection of personal health information. Consumer Privacy: The FTC enforces the Fair Credit Reporting Act, which promotes accuracy in consumer reports and ensures the privacy of the information in them. The type of information the FCRA protects is information provided by consumers in connection with credit card applications, personal loans, and insurance. Spyware: Spyware allows a programmer track a user's computer viewing habits without the user's knowing consent. Utah is the first state to pass a law that prohibits the use of spyware. The Spyware Control Act restricts the use of spyware technology and enacts provisions to protect the interests of businesses and consumers. Under the law, a company cannot install onto another's computer spyware, or software that "monitors the computer's usage" and "sends information about the computer's usage to a remote computer or server" that is used for surreptitious tracking purposes. There are several bills pending at the federal level that address the use of spyware. It is unclear whether other states will also enact spyware laws, and whether the bills pending at the federal level will be enacted.</p>	
Restrictions to the media	<i>Direct Mail</i>	The DMA has a "Mail Preference Service." Consumers can put themselves on the list. Companies use the list to acquire names of persons who do not want to receive unsolicited mail. The U.S. Postal Service maintains a list of people who do not want sexually oriented mail coming to their home, and provides the list to companies that mail such promotions.
	<i>E-mail</i>	E-mail marketing must comply generally with the Can Spam Act. Opt out requests from consumers must be honored in accordance with the standards set forth by the Act.
Upcoming changes	Privacy laws in the US are constantly being updated and changed.	
Last updated	23 December 2004	

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Subject	Motors	
Country	United States	
Contact	Doug Wood	
General legal framework	Automobile advertising must be true and not misleading. Depending on the type of advertising, whether for a used car or in connection with specific claims, an advertiser must comply with certain guidelines.	
General self-regulatory framework	The National Automobile Dealers Association has adopted a code of ethics that encourages automobile dealers to advertise their products "in a positive, factual, and informative manner."	
Restrictions to the activity	<p>In general, all automobile advertising must be true and not misleading. Comparative advertising claims and performance claims must be supported by adequate substantiation. Fuel Economy: The FTC Fuel Guide provides guidance to automobile manufacturers to prevent deceptive advertising and to facilitate the use of fuel economy information in advertising. The Guide advises vehicle manufacturers and dealers how to disclose the established fuel economy of a vehicle, as determined by the Environmental Protection Agency, in advertisements that make representations regarding the fuel economy of a new vehicle. The disclosure is tied to the claim made in the advertisement. Used Cars: Most car dealers who sell used vehicles must comply with the FTC's Used Car Rule. Banks and financial institutions are exempt from the Rule, as are businesses that sell vehicles to their employees, and lessors who sell a leased vehicle to a lessee, an employee of the lessee, or a buyer found by the lessee. The Used Car Rule applies in all states except Maine and Wisconsin, which have similar regulations that require dealers to post disclosures on used vehicles. The Rule applies in the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and American Samoa. Automobile Credit Claims: The Truth in Lending Act requires credit advertisers to give consumers information that enables them to compare credit terms. Under the law, advertisers who state any interest rate must also provide the annual percentage rate (the total cost of credit). In addition, the use of certain terms in ads triggers the requirement to state other major loan terms. Further, the Consumer Leasing Act and Regulation M apply to ads for consumer leases. For example, if a lease advertisement includes certain terms - such as the amount of any payment due before or at lease inception - the ad also must make other mandatory disclosures about the terms of the lease. These rules also apply if the ad contains phrases like "no money down" or "no down payment." The Consumer Leasing Act triggers certain disclosures in certain instances.</p>	
Restrictions to the media	Radio	See television.
	TV	The disclosures required by the Consumer Leasing Act apply to all advertisements that mentions consumer leases. If a radio or TV ad refers clearly and conspicuously to a toll-free number through which consumers can obtain the required lease information, and the advertiser follows certain procedures, the advertiser can somewhat limit the information provided in a radio or TV ad. The major networks require advertisers to disclose "Professional Diver. Closed Course" or something similar in advertisements that show aggressive driving or stunts. Additionally, when advertisers show people driving, the networks require the driver to be wearing a seat belt. The driver should not be engaging in any activity that could hamper his driving skills (i.e. talking on the phone).
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Subject	Health & Beauty
Country	United States
Contact	Doug Wood
General legal framework	The advertising of health and beauty products is governed by federal law. As a general rule, advertising for cosmetics and health products such as dietary supplements is regulated by the FTC. Labeling for these products is regulated by the FDA. Advertising of these products must be truthful and not misleading and supported by substantiation in the form required by the FTC.
General self-regulatory framework	The self-regulatory framework of the NAD includes review of claims made on behalf of health and beauty products.
Restrictions to the activity	The requirements for the advertisement of cosmetics and health products apply regardless of the media used for the advertising. Beauty / Cosmetic Products Cosmetics marketed in the United States, whether manufactured in the United States or imported from abroad, must be in compliance with the provisions of the Federal Food, Drug, and Cosmetic Act (FD&C Act), the Fair Packaging and Labeling Act (FPLA), and the regulations published under these laws. The FD&C Act prohibits the misbranding of any cosmetic in interstate commerce. The Act defines misbranding to include "false or misleading labeling and advertising of food, drugs, devices, and cosmetics." Products that are cosmetics but are also intended to treat or prevent disease, or otherwise affect the structure or function of the body, are considered drugs and must comply with both the drug and cosmetic provisions of the law. The FTC has overlapping jurisdiction with the FDA. The FTC regulates the advertising and promotion of cosmetics. The FTC requires that all advertising be truthful and not misleading and that advertisers have substantiation for all objective advertising claims. Cosmetic advertising has traditionally relied on a combination of puffery and subjective claims such as "makes you look or feel beautiful." The FTC normally does not focus on such claims. The FTC concentrates its efforts on cosmetics advertisements that include health or safety claims or otherwise present a risk of physical injury to consumers. Health Products The FDA has primary responsibility for claims on product labeling, including packaging, inserts, and other promotional materials distributed at the point of sale. The FTC has primary responsibility for claims in advertising, including print and broadcast ads, infomercials, catalogs, and direct marketing materials. Health products encompass dietary supplements that are advertised to help improve people's overall health and wellness. Dietary supplements include vitamin, mineral herbal products, and amino acids. The FTC requires that advertisers have "competent and reliable scientific evidence" to support each substantive claim of a health benefit in connection with a dietary supplement. The substantiation standard of "competent and reliable scientific evidence" means "tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results." If the advertiser uses consumer testimonials, it is not enough that the testimonial reflect the experience of the consumer. The advertiser must have independent substantiation for the claims made in the testimonial in the form of competent and reliable scientific evidence. Essentially, advertisers should not make claims either through consumer or expert endorsements that would be deceptive or could not be substantiated if made directly. Recently, the FTC has increased enforcement action in the area of dietary supplements.
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Activity	Comparative advertising	
Country	United States	
Contact	Doug Wood	
General legal framework	Comparative advertising is permissible and encouraged by the FTC because, in the view of the Commission, comparative advertising promotes competition in the marketplace. In general, such advertising must be truthful and not misleading and must be supported by substantiation.	
General self-regulatory framework	If the advertisement is disseminated and a complaint about it is received from the public or a competitor, it is submitted first to the NAD for review. Members of the American Association of Advertising Agencies (the "4 A's") apply the standards set forth in its Policy Statement and Guidelines for Comparative Advertising.	
Restrictions to the activity	The FTC supports comparative advertising because it "encourages product improvement and innovation, and can lead to lower prices in the marketplace." In a policy statement on comparative advertising, the FTC defines comparative advertising as "advertising that compares alternative brands on objectively measurable attributes or price, and identifies the alternative brand by name, illustration or other distinctive information." Advertisers must follow certain guidelines when engaging in comparative advertising. In general, the basis of the comparison to a competitor's product must be clear. Further, an advertiser must have adequate substantiation to support the claims made in the comparison. Finally, the advertiser cannot use or reference a competitor's alternative brand in a manner that disparages or tarnishes the brand. Under general principles of advertising law, an advertiser is responsible for the net impressions created by its advertising, even though such impression is unintentional. Thus, advertisers must attempt to determine the consumer's net impression in connection with comparative advertising claims and be certain that the net impression is supported by the substantiation. Depending on the context of the advertisement, it may be necessary to add a disclaimer to ensure that the audience is not confused as to the source of the product.	
Restrictions to the media	TV	The major networks will accept comparative advertising if the claims, comparative and otherwise, are truthful, fair, and adequately substantiated. The networks place no restrictions on commercials that draw meaningful comparisons with specific competing products or services as long as these comparisons are fair and substantiated.
Upcoming changes	There are currently no proposed changes to the general legal principles that govern advertising law.	
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Subject	Financial products and services
Country	United States
Contact	Doug Wood
General legal framework	Financial institutions are free to advertise as long as the advertisements are not confusing or misleading. In general, advertisements by depository financial institutions are regulated and supervised by the federal bank and thrift regulatory agencies. Further, several states have enacted "Truth-in-Savings" laws mandating certain disclosures in deposit advertising.
General self-regulatory framework	The American Bankers Association has adopted a "Statement of Principle of Financial Advertising." This principle is a voluntary code of ethics for bank advertising. Although the code is not legally binding, the Comptroller of the Currency has included it in his Handbook for Consumer Examinations, and violations of the code are cited by national bank examiners.
Restrictions to the activity	Advertisements by federally chartered or insured institutions are regulated by one of five federal agencies: the Office of the Comptroller of the Currency; the Board of Governors of the Federal Reserve System; the Federal Deposit Insurance Corporation; the Federal Home Loan Bank Board; or the National Credit Union Administration Board. Consumer Credit Advertisements for credit are regulated by the Truth-in-Lending Act and regulations issued by the Federal Reserve System, also known as Regulation Z. "Bait" advertisements are prohibited, and advertisements that use certain "trigger" terms must make certain mandatory disclosures. The advertising restrictions contained in the Truth-in-Lending Act only apply to "consumer credit." Consumer credit is defined as credit offered to a consumer "primarily for personal, family or household purposes." The Truth-in-Lending Act prohibits any advertisement from promoting an extension of consumer credit that offers credit or credit terms that are not "usually and customarily" arranged. The advertisement of open-end credit requires certain disclosures, while advertisements for closed-end credit require other disclosures. Lease Advertisements Lease advertisements must comply with the requirements of the Consumer Leasing Act, as well as Regulation M of the Federal Reserve Board. Bait advertisements are prohibited, and the use of certain trigger terms requires that additional disclosures be made. A "consumer lease" is defined as a "contract in the form of a lease or bailment for the use of personal property by a natural person for a period exceeding four months, primarily for personal, family or household purposes. An advertisement may state terms that will be offered for only a limited period or terms that will become available at a future date. As in the Truth-in-Lending provisions, this restriction protects the consumer against "bait" advertising. A lease advertisement may state that property is available for lease on specific terms or at specific amounts only if the lessor "usually and customarily" enters into leases on such terms. If certain trigger terms are used in the advertisement, certain disclosures must be made. Other Many states and the federal government have enacted truth in savings laws that require disclosure of information regarding savings accounts. Bank and thrift institution advertisements must comply with the non-discrimination requirements of the Equal Credit Opportunity Act, the Fair Housing Act, and the Community Reinvestment Special restrictions are imposed when advertisements concern the name of the financial institution, its insurance status, gold transactions, lotteries, federal agency names, and promotions involving the distribution of credit or debit cards or using currency illustrations. National banks must retain advertising copy for at least two years.
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Subject	Pharmaceuticals	
Country	United States	
Contact	Doug Wood	
General legal framework	With regard to the advertising of pharmaceuticals and over-the-counter drugs, the FTC and the FDA have overlapping authority. The FTC deals with most matters regarding claims in advertisements for over-the-counter drugs. The FDA handles most matters regarding the labeling of OTC drugs. With regard to prescription drugs, the FDA handles most matters related to the advertising of prescription drugs.	
Restrictions to the activity	Over-the-Counter Drugs As with any advertising for all products, claims for over-the-counter drugs must be truthful and not misleading. All claims regarding the efficacy and performance of such drugs must be supported y adequate substantiation. Depending on the claim, advertisers may be required to back up their representations with competent and reliable scientific evidence, which generally includes tests, studies, or other objective data. Prescription Drugs The same statute and regulations apply regardless of the audience targeted by a prescription drug advertisement. The Food, Drug, and Cosmetic Act requires that all drug advertisements contain a brief summary of the drug's side effects, contraindications, and effectiveness. This requirement has become known as the "Brief Summary." The disclosure must include all the risk information in a product's approved labeling. There are a few exceptions but only to the requirement to provide a true statement of information in the brief summary. Reminder advertisements are the most common. Reminder advertisements call attention to the name of the drug product but do not include indications or dosage recommendations for use of the product, or any other representation. Reminder ads contain the proprietary name of the drug and the established name of each active ingredient. They may also contain additional limited information, such as the name of the company, price, or dosage form. If the manufacturer or sponsor of a prescription drug has received a letter stating that the product has been approved by the FDA, the advertisement can say "FDA Approved." In general, a product may be described as "new" for six months from the time a product is initially marketed.	
Restrictions to the media	<i>Direct Mail</i>	See Press below.
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Activity	Direct Marketing	
Country	United States	
Contact	Doug Wood	
General legal framework	Laws applicable to direct marketing must be examined in context. Direct marketing laws vary depending on the product being marketed and the medium in which the direct marketing is conducted, generally e-mail, regular mail, telephone, and the Internet. Both federal and state laws apply.	
General self-regulatory framework	The DMA has adopted a number of guidelines which are meant to provide ground rules and principles for proper behavior in all aspects of direct marketing, including telemarketing. The Electronic Retailer Association (ERA) has issued self-regulatory guidelines that specifically dealt with telemarketing. However, as a result of the new requirements of the FTC's Telemarketing Sales Rule which was amended in 2003, the ERA has withdrawn its prior guidelines and is in the process of drafting new ones.	
Restrictions relating to products or services	<i>Others</i>	Telemarketing Federal Laws The Telemarketing Sales Rule (TSR): The TSR gives effect to the Telemarketing and Consumer Fraud and Abuse Prevention Act. In general, the TSR requires disclosures of specific information, prohibits misrepresentations, limits when telemarketers may call consumers, requires transmission of Caller ID information, prohibits abandoned outbound calls, prohibits unauthorized billing, sets payment restrictions for the sale of certain goods and services, and requires that specific business records be kept for two years. A third party also can be held liable for violating the TSR if the third party substantially assists a seller or telemarketer and knows, or consciously avoids knowing, that the seller or telemarketer is violating the Rule by failing to obtain verifiable authorization. State Law Almost all states have telemarketing laws. Most states have several exemptions to their telemarketing laws. For example, in many states, there is a "pre-existing business relationship" exemption whereby companies that are doing business with a consumer with whom they have done business before are exempted from all or part of the telemarketing law. Further, there are also exceptions to the requirement that a seller memorialize a transaction in a writing. The most common exception to the writing requirement is where the telemarketer has a refund policy that is at least as broad as the one set forth in the applicable statute. Each state's laws must be consulted prior to conducting telemarketing in that state.
Restrictions to the activity	E-mail Marketing When direct marketing occurs via e-mail, the Can-Spam Act of 2003 will apply. See the E-mail Section. Telemarketing When marketers contact consumers via the telephone, federal and state telemarketing laws apply. Although federal telemarketing laws trump state laws such that states cannot pass any laws that grant rights to telemarketers that federal laws prohibit, states are free to enact laws that are more restrictive than their federal counterparts. For example, a state could pass a law with more restrictive calling hour limitations or greater disclosure requirements. Telemarketing laws restrict the hours during which telemarketers can call consumers, the manner in which telemarketers can use automatic dialing and announcement devices, and require telemarketers to comply with state do-not-call lists. Additionally, telemarketers cannot call consumers whose telephone numbers are on the National Do Not Call Registry. Direct Mail Pursuant to the Mail or Telephone Order Merchandise Rule (MTOR), a seller must have a reasonable basis for stating or implying that it can ship within a certain time when advertising mail or telephone order merchandise. If the seller makes no shipment statement, the seller must have a reasonable basis for believing that it can ship within 30 days. If, after taking an order, the seller learns that it cannot ship within the time you stated or within 30 days, the seller must seek the customer's consent to the delayed shipment. Direct mail solicitations that contain sweepstakes entry materials must comply with the Federal Deceptive Mail Prevention and Enforcement Act (See Prize Promotion section). Unsolicited Facsimiles The Telephone Consumer Protection Act and rules of the FCC bans unsolicited faxed advertisements, making it unlawful for anyone to fax an unsolicited ad to another individual or business if there is no prior business relationship.	
Restrictions to the media	<i>Direct Mail</i>	The DMA has a "Mail Preference Service." Consumers can put themselves on the list. Companies use the list to acquire names of persons who do not want to receive unsolicited mail. The U.S. Postal Service maintains a list of people who do not want sexually oriented mail coming to their home, and provides the list to companies that mail such promotions.
	<i>E-mail</i>	When direct marketing occurs via e-mail, the Can-Spam Act of 2003 will apply. See the E-mail section.
	<i>SMS</i>	If a company uses SMS to contact a consumer with an offer, the company must consider how to comply with the disclosure requirements generally required by U.S. advertising laws.
Upcoming	Direct marketing laws in the United States are constantly being amended and updated. On October 1,	

changes	2004, the FCC released an Order extending through June 30, 2005 its stay of important provisions of its July 3, 2003 Rule concerning unsolicited faxes.
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Activity	Coupons	
Country	United States	
Contact	Doug Wood	
General legal framework	The use of coupons by manufacturers is permitted as long certain requirements are met.	
General self-regulatory framework	A coupon must state all materials information, including the expiration date of the coupon, the exact product or products that are covered by the coupon, and the amount of discount offered by the coupon. Further, coupons are given a cash value in order to comply with laws in a few states that classify them as trading stamps. The cash value is generally high enough to meet the legal requirement but low enough to keep people from collecting coupons.	
Restrictions relating to products or services	<i>Tobacco</i>	Coupons for tobacco products may only be redeemed at retail stores only.
	<i>Alcoholic beverages</i>	Under BATF regulations, an industry member may furnish coupons to consumers that are redeemable at retail establishments, subject to conditions. These conditions include making such coupons redeemable also by other retailers within the offering market, and limiting reimbursement to the retailer to the face value of the coupons.
Restrictions to the activity	A coupon must state all materials information, including the expiration date of the coupon, the exact product or products that are covered by the coupon, and the amount of discount offered by the coupon. Further, coupons are given a cash value in order to comply with laws in a few states that classify them as trading stamps. The cash value is generally high enough to meet the legal requirement but low enough to keep people from collecting coupons.	
Restrictions to the media	<i>Direct Mail</i>	Manufacturers and businesses can send consumers coupons via direct mail advertising.
	<i>E-mail</i>	Manufacturers and businesses can send consumers coupons via e-mail.
	<i>Web</i>	Manufacturers and businesses can post coupons on their websites that can be printed by consumers and redeemed in-store. Because of the worldwide reach of the Internet, online coupons should have geographic restrictions.
	<i>Press</i>	Manufacturers and businesses can include coupons for discounts on their products in newspapers and magazines.
Upcoming changes	There are currently no proposed changes to the general principles of advertising law that apply to coupons.	
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Activity	E-mail	
Country	United States	
Contact	Doug Wood	
General legal framework	Commercial e-mail messages must comply with the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003, otherwise known as the CAN-SPAM Act of 2003. The FTC is the primary federal agency charged with enforcing the Act. The Act preempts all state laws that regulate the transmission of e-mail. It does not preempt any law that prohibits deception in commercial e-mail. Further, states are still free to enact laws relating to computer crime.	
General self-regulatory framework	The DMA has guidelines that set forth the conditions under which marketers' commercial online solicitations may be sent. The IAB Committee has also issued a series of guidelines that address commercial e-mail.	
Restrictions to the activity	The Act establishes requirements for those who send commercial email, spells out penalties for companies that violate the law, and gives consumers the right to ask e-mailers to stop spamming them. The law, which became effective January 1, 2004, covers email whose primary purpose is advertising or promoting a commercial product or service, including content on a website. A "transactional or relationship message" - email that facilitates an agreed-upon transaction or updates a customer in an existing business relationship - may not contain false or misleading routing information, but otherwise is exempt from most provisions of the Act. The Act imposes limitations on and penalties for the transmission of certain commercial electronic mail messages. In general, the Act requires that commercial e-mail be identified as an advertisement or solicitation. Transactional or relationship messages, or e-mails the recipient has consented to receive, are not required to contain this disclosure. All commercial e-mails must contain a clear and conspicuous notice of the opt-out mechanism. Commercial e-mail messages must also include a valid physical postal address of the sender. It is unclear whether a P.O. box satisfies this requirement. The FTC is likely to offer guidance on that issue through rulemaking or compliance materials. Finally, the Act mandates warning labels on all commercial e-mail messages that contain sexually-oriented material. This does not apply to messages where the recipient has previously consented to receive such the e-mail.	
Restrictions to the media	<i>Others</i>	Several legislative efforts have attempted to promulgate a national Do Not E-mail registry. Thus far, these efforts have been unsuccessful. The FTC is currently looking into whether such a registry would be effective.
Upcoming changes	The Act gives the FTC authority to issue rules and regulations to clarify its provisions. To that end, the FTC is expected to issue a regulation that addresses how to determine whether the "primary purpose" of an email message is commercial. That determination is significant because compliance obligations under the Act pertain only to commercial email. Although this is not a change to the Act itself, the regulation will nonetheless expand on the Act and affect how it is applied practice.	
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Activity	Sponsorship	
Country	United States	
Contact	Doug Wood	
General legal framework	Sponsorship of events by corporations and persons are governed generally by principles of advertising law. Certain sponsorship identification rules apply to sponsorship of programming over broadcast media.	
General self-regulatory framework	The DMA's Ethics Guides require the disclosure of sponsor and intent information in direct mail solicitations. CARU interprets its guidelines as applying to sponsor identifications on non-commercial television and radio.	
Restrictions relating to products or services	<i>Tobacco</i>	Pursuant to the Master Settlement Agreement between the state attorneys general and tobacco companies, tobacco companies are now restricted in the manner in which they may sponsor events. Manufacturers of tobacco products may not sponsor concerts, events with a significant youth audience, and events where the paid participants or contestants are underage. Tobacco companies are limited to one brand name sponsorship per year. The use of tobacco brand names for stadiums and arenas is prohibited. Corporate sponsorship of athletic, musical, cultural, artistic or social events is permitted as long as the corporate name does not include the brand name of a domestic tobacco product.
	<i>Alcoholic beverages</i>	Restrictions on sponsorship of events by alcohol manufacturers can be instituted through a local ordinance or state law, or can be implemented voluntarily by a business or organization. Some universities prohibit students from hosting an event that will be sponsored by an alcohol manufacturer. In most instances, these restrictions are specific to events that are geared toward minors.
Restrictions to the activity	Federal law requires the identification of paying sponsors over broadcast media and on cable television. Further, in connection with sponsorship generally, certain industries are prohibited from sponsoring certain types of events.	
Upcoming changes	There are currently no upcoming changes to the sponsor identification requirement in broadcast media.	
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The information set out above is only intended to provide a general overview of the subject matter covered. It is not a substitute for legal advice, which should be obtained for each individual situation, from a suitably qualified and experienced local lawyer.

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