

Consumer Protection Group

To: Our Clients and Friends

November 23, 2009

New FTC Advertising Guide Warns Celebrities and Professionals to Disclose That They Are Paid Endorsers When Commenting on Products

The Federal Trade Commission ("FTC") has issued a new Guide Concerning the Use of Endorsements and Testimonials in Advertising which will go into effect on December 1, 2009. Among other things, the new guide specifically warns celebrities to disclose any connection that they have to a company when publicly speaking, or writing, about that company's products. Although the new guide is not a law, the FTC has indicated that it may initiate investigations or litigation against celebrities and professionals that fail to abide by the guide.

In light of the new guide, the FTC may consider the following common advertising practices to be deceptive under Section 5 of the Federal Trade Commission Act:

- A celebrity/professional discusses during a television interview a product or service that she has used without mentioning during the interview that she has a connection to the company that sells the product or provides the service.
- A celebrity/professional discusses in an article or in an editorial a product or service that she has used without mentioning that she has a connection to the company that sells the product or provides the service.
- A celebrity/professional discusses on a blog, or on a social networking site (*e.g.*, Facebook, or MySpace) a product or service that she has used without mentioning that she has a connection to the company that sells the product.

Nothing within the new guide, however, requires celebrities or professionals to disclose that they have been paid when appearing in commercials. Similarly nothing within the new guide requires celebrities to disclose that they have been paid to wear clothes, or use products, made by a company so long as they do not comment on the clothes or products.

For additional information concerning the FTC's new guide, or to ask any other questions concerning federal and state advertising laws, rules, and guidance, feel free to contact [David Zetoony](#) in Washington D.C., at 202-508-6030, or any of our other consumer protection attorneys.

Washington, D.C.

Patrice Hayden
(202) 508-6147
PMHayden@bryancave.com

Daniel Prywes
(202) 508-6094
Daniel.Prywes@bryancave.com

Daniel Schwartz
(202) 508-6025
DCSchwartz@bryancave.com

David Zetoony
(202) 508-6030
David.Zetoony@bryancave.com

Missouri

Karen Garrett
(816) 374-3290
Kansas City, MO
KLGarrett@bryancave.com

Perry Johnson
(314) 259-2308
St. Louis, MO
EPJohnson@bryancave.com

Becky Nelson
(314) 259-2412
St. Louis, MO
RANelson@bryancave.com