



## Advertising, Marketing and Promotions

Our internationally recognized Advertising team helps media companies and major brands produce and distribute content; structure and negotiate sports, entertainment and digital marketing deals and navigate the ever-changing legal landscapes that affect how their advertising, marketing and promotional campaigns are activated across all media. We represent major consumer brands, major film studios, professional sports teams, broadcast and cable television networks, over-the-top (OTT) content distribution platforms as well as

retailers and their respective advertising, marketing and promotions agencies in all aspects of marketing, with a differentiating emphasis on sports marketing, entertainment marketing and interactive marketing, as well as innovative branded entertainment and e-sports initiatives.

Among our clients are high-profile brands with sponsorship relationships across every professional sport in the US, as well as in many other countries, major motion picture studios, broadcast and cable television networks, major streaming platforms and the largest public relations agency in the world. We also advise regularly on sustainability / ESG aspects of advertising campaigns. Our advertising team is ranked by both Legal 500 and Chambers in various territories around the world.

Our transactional advertising practice includes structuring and negotiating media planning and buying agreements as well as league-level and team-level sports marketing and sponsorship agreements; preparing endorsement agreements with athletes, influencers and Hollywood celebrities; structuring and activating commercial co-venture campaigns; preparing and negotiating joint-promotion alliances for product launches and tent-pole motion picture and other content releases, esports telecasts, branded entertainment productions and other innovative content initiatives; and analyzing and licensing copyright, trademark, publicity and other intellectual property rights associated with such projects.

We also assist in structuring and activating social media campaigns and customer loyalty programs, licensing and protecting intellectual property rights, reviewing and clearing advertising copy for use in online and offline media, and negotiating creative agency engagement agreements.

In addition, we advise on compliance with state and federal regulations in the US and globally governing online and mobile gaming, fantasy sports initiatives, esports tournaments and some of the highest-profile contests and sweepstakes promotions around the world.

Because every advertising campaign and content distribution project involves some level of consumer privacy, we work closely with our Data Protection and Privacy team to navigate the US and non-US privacy and data protection laws and regulations that regulate the collection, use, sharing and protection of such data.

### RELATED SERVICES

- Intellectual Property and Technology
- Media, Sport and Entertainment

### CAPABILITES

## Transactional

- Structuring and negotiating media planning and buying agreements as well as advertising and promotions agency agreements
- Structuring and negotiating league-level and team-level sports marketing and sponsorship agreements, including jersey sponsorship agreements and stadium naming rights agreements
- Negotiating endorsement and personal-services agreements on behalf of major consumer brands with athletes, social media influencers and A-list celebrities from the sports, fashion, music and entertainment industries
- Preparing and negotiating joint-promotion alliances for product launches as well as tent-pole motion picture and other content releases, esports telecasts, branded entertainment productions and other innovative content initiatives
- Analyzing and licensing copyright, trademark, right of publicity and other intellectual property rights associated with the use of pre-existing third-party materials in advertising campaigns and branded entertainment initiatives
- Conducting diligence on content libraries in mergers and acquisitions between corporate entities and determining whether the scope of licensed rights extends to new technologies
- Coordinating with our Data Privacy and Protection team to navigate the state, federal and international privacy laws implicated by online, mobile and other digital advertising initiatives and campaigns
- Negotiating sports media broadcast and other content distribution agreements
- Structuring and activating commercial co-venture campaigns in which the purchase of a product also benefits a nonprofit or charitable organization
- Advising on compliance with state and federal regulations governing online and mobile gaming, fantasy sports, esports tournaments, virtual currencies, digital goods and high-profile contest and sweepstakes promotions around the world
- Resolving disputes that arise between competitors in connection with national advertising through negotiation, litigation and National Advertising Division (NAD) proceedings
- Structuring and activating customer loyalty and automatic-subscription-renewal programs

## Clearance and Promotions

- Reviewing and clearing advertising copy for use in broadcast, online and offline media
- Advising on compliance with advertising regulation and law, including in relation to sustainability and environmental, social and corporate governance (ESG) claims; children; alcoholic drinks; gambling; esports; pharmaceutical products and devices; cosmetics; and food and beverage
- Advising on sweepstakes and prize draws, skill competitions and other promotions, often spanning multiple countries. Our work includes producing terms and conditions, obtaining licenses and complying with other formalities where required, advising on tax aspects and addressing related complaints and disputes
- Advising on good-cause promotions (eg, compliance with charity laws)
- Advising on IP infringement risk in advertising and on strategies to minimize such risk
- Advising on product labeling and packaging regulation, including for highly regulated or restricted products like pharmaceuticals, medical devices, alcohol, tobacco and hemp
- Advising on pricing and distribution advertising issues, often in conjunction with our Antitrust and Competition team
- Advising sponsors, rights owners and third-party brands on ambush-marketing issues around major sporting events
- Advising on financial and consumer credit advertising and promotions in conjunction with our colleagues focusing on those areas of regulation

## Disputes / Investigations

DLA Piper's Advertising Litigation and Disputes team counsels companies on the false advertising and regulatory issues that are increasingly critical for their businesses. We partner with our clients, helping them to investigate, pursue and defend against advertising claims, regulatory and criminal investigations, while providing practical guidance on matters of claim development, assessment and substantiation with an aim to mitigate risk and even avoid disputes altogether.

## Data Privacy

- Advising, in conjunction with our leading Data Protection and Privacy team, on all data protection and privacy aspects of such advertising work, including direct-marketing campaigns, behavioral advertising and ad-tech, privacy aspects of promotions, and regulatory investigations and data breaches arising out of marketing campaigns

## EXPERIENCE

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- Clearing, running and undertaking subsequent updates for an international prize promotion for a major tech brand covering approximately 50 countries.
- Advising a global brand on various aspects (regulatory and transactional) of charitable promotions, across a number of jurisdictions.
- Negotiating endorsement/ other talent agreements on behalf of major retailers and consumer brands with athletes, social media influencers and A-list celebrities from the sports, fashion, music and entertainment industries.
- Advising a household name consumer goods brand on numerous comparative advertising disputes (as both complainant and respondent) with its major competitors across multiple territories (including before several national regulators).
- Negotiating entertainment marketing agreements and structuring the corresponding campaigns in connection with major film releases.
- Advising global operator of theme parks on advertising and marketing clearance, developing compliance policies, dealing with advertising regulatory breaches and complaints, and negotiating marketing aspects of brand licensing agreements.
- Assisting a leading international consumer goods manufacturer on a competitor dispute regarding sustainability and environmental claims.
- Advising an online fashion retailer, one of the fastest growing e-commerce companies in Europe, on their advertising & marketing roll-out around Europe.
- Representing a leading global technology company in advertising and unfair competition matters, including coordinating several cross-border litigation matters, the placement of advertising campaigns, advertising clearance, promotions etc.
- Advising a worldwide leading cosmetics company on various promotion and advertising campaigns, in particular cross-border campaigns.
- Multi-jurisdictional assistance to two global sportswear brands on influencer marketing issues, and developing influencer terms and policies.
- Producing influencer term templates for various well-known international brands.

## INSIGHTS

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### Publications

#### **Mitigate the legal risks of influencer marketing with our updated and expanded Influencer Marketing Guide**

11 April 2022

Influencer marketing continues to play an increasingly important role in marketing strategies. However, there are numerous legal challenges for influencers and the brands they cooperate with, and influencer marketing remains a focus for advertising regulators around the world.

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#### **Brands and influencers in the spotlight as FTC focuses on civil penalties for deceptive advertising**

13 December 2021

More than 700 warning letters sent in just one month.

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#### **Animal welfare and the depiction of animals in advertising**

29 November 2021

## SUSTAINABILITY AND ESG ISSUES IN ADVERTISING

In this vlog, Elena Varese discusses how brands should approach animal welfare claims in advertising from the perspective of Italian law.

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### Brands and influencers in the spotlight as FTC focuses on civil penalties for deceptive advertising

4 November 2021

The FTC again sends the message that it is closely monitoring advertising on social media and will act to stop practices it views as deceptive and unfair.

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### Enhancing the value of local products through collective marketing

20 September 2021

## SUSTAINABILITY AND ESG ISSUES IN ADVERTISING

In this vlog, Alexis Fierens discusses how collective marketing strategies can enhance the value of local products.



## **Plant-based meat alternatives and the state of advertising regulation in Australia**

13 August 2021

### **SUSTAINABILITY AND ESG ISSUES IN ADVERTISING**

In this vlog, Jessie Buchan discusses the rise in plant-based meat alternatives and the related advertising and marketing issues emerging in Australia.

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## **Environmental claims in advertising - latest UK regulatory action**

2 August 2021

### **SUSTAINABILITY AND ESG ISSUES IN ADVERTISING**

In this vlog, John Wilks discusses latest UK regulatory action in regards to environmental claims in advertising.

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## Sustainability claims - French perspective

22 July 2021

### SUSTAINABILITY AND ESG ISSUES IN ADVERTISING

In this vlog, Gregory Tulquois looks at sustainability claims in advertising under French law.

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## Going global: How reputation can boost brand protection prospects

20 November 2020

A generic term – the commonly used name of a class of products or services – is ineligible for federal trademark registration in the US. But a generic term combined with ".com" can create a federally protectable trademark, even if the generic term alone could not.

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