



10 REASONS

MARKETERS SHOULD PARTNER WITH LEGAL TEAMS

Whether running a campaign through an in-house marketing team or outsourcing to a third-party agency, legal implications are often overlooked in the creative process. Such missteps throughout a campaign life cycle can mean the difference between a high-visibility program with client and customer engagement, and a high-visibility program with aggressive regulatory engagement.



Armstrong Teasdale's skilled lawyers partner closely with our clients across different mediums to develop effective global marketing strategies, assess risks and ensure compliance. The following is a collection of areas in which our team can provide sound legal guidance and added value:

- 1. Agency and Marketing Service Agreements:** Many people do not realize that they need more than a simple purchase order with their vendors and agency, and these agreements and contracts are negotiable. Any time an individual or organization enters a fiduciary relationship, terms should be reviewed carefully and negotiated. Our team can ensure such relationships are in your best interest and that services to be provided and ownership of the work product are clear.
- 2. Advertising and Product Claim Rules and Regulatory Compliance:** The federal Lanham Act and other state consumer protection statutes exist to ensure fair practices mitigate false advertising, and regulatory agencies including the Consumer Financial Protection Bureau (CFPB), Federal Communications Commission (FCC), Federal Food and Drug Administration (FDA), Federal Trade Commission (FTC) and National Advertising Division (NAD) are watching advertising campaigns now more than ever for false and unsupported claims and unsubstantiated product comparisons. With a closer focus on claims and comparative advertising, we work with our clients to carefully and thoughtfully apply compliant language across marketing collateral.
- 3. Trademark and Intellectual Property Rights:** From creating a brand logo to campaign graphics, intellectual property assets can make or break an otherwise effective marketing strategy. Our team can assist in the development, maintenance and protection of content libraries, and provide advice relating to trademark selection, protection and infringement issues. From a licensing and distribution standpoint, we can also ensure the peaceful coexistence of brand assets, and negotiate terms and agreements with global reach.
- 4. Packaging and Labeling:** Product packaging and point-of-sale materials must be consistent with approved legal claims, and in many instances, additional regulatory content is required relating to contents, safety, or otherwise. Additionally, there are many categories of labeling statements that, although legally permissible, substantially enhance litigation risks. Our team is experienced with speedy yet thorough reviews of package and label mockups, not only to spot regulatory hiccups, but also to ensure proper use of trademark symbols, all so that the marketing team can place the next run order as quickly as possible.
- 5. Marketing Promotions:** From sweepstakes and contests to loyalty programs, giveaways and gift cards, establishing a set of clear and concise Official Rules prior to each promotion is always a best practice. We not only ensure such programs include the level of specificity required to comply with local illegal gambling and gaming laws, but we also assist with the implementation of prize provider agreements and compliance with data privacy regulations.
- 6. Social Media:** With the rise of online platforms and social media channels in the past decade, extensive marketing and advertising campaigns are not limited to large corporations. More access can mean more problems. Failure to comply with platform-specific policies on permissible marketing and promotional activities could mean the suspension or even termination of an account. Brands may also face challenges regarding the ownership of domain names and social channel/handle recovery. Our team is available to help you navigate the complexities of running a successful social campaign.
- 7. Endorsements and Sponsorships:** Celebrities, professional athletes and sports teams, and artists in all mediums are often called upon for endorsement and sponsorship opportunities, particularly those that require compliance with name, image and likeness (NIL) laws. We help both brands and professionals negotiate favorable terms in compliance with the law to ensure a successful partnership with a positive outcome for all parties.

8. **Promotional Events and Permits:** In connection with a campaign, brands or professionals may want to lend their name to an event or facility. Some jurisdictions require special permitting for events and associated marketing activities, merchandise sales and even drone or unmanned aircraft usage. Partnering with nonprofits on cause marketing poses additional regulatory requirements. Our team is well-equipped to assist you with evaluating the specific requirements for your proposed event and negotiating agreements with your event partners.
9. **Data Innovation, Security and Privacy:** Recent data privacy regulations and legislation have widespread implications for marketing and advertising practices, including behavioral targeted advertising, data sharing, loyalty programs, and email and SMS marketing campaigns. These regulations include the General Data Protection Regulation (GDPR), California Privacy Rights Act (CPRA), Telephone Consumer Protection Act (TCPA) and CAN-SPAM, among others. We advise on collecting, storing and transferring data; providing notice to obtain consent from individuals to engage in marketing and advertising practices; and relevant rights consumers have regarding marketing and advertising.
10. **Brand Protection:** Our attorneys are zealous advocates for firm clients, both in the boardroom and the courtroom, and have the skill set to protect brands and enforce intellectual property rights around the world. From implementing brand protection measures at the start, to acting quickly to remove infringing materials or counterfeit product from the marketplace, our teams partner closely with clients to strategically maintain the strength of their brands across all jurisdictions.

RELATED SERVICES AND INDUSTRIES

Our lawyers work across offices internationally and have experience in more than 70 formalized services and industries. Below are a number of select services we offer. For a full list, visit www.atllp.com/services.

- Agribusiness and Food
- Anti-counterfeiting
- Consumer Products and Services
- Contracts and Agreements
- Copyrights
- Corporate
- Data Innovation, Security and Privacy
- Direct Marketing

- Email Marketing
- False Advertising Claims
- Influencer Marketing
- In-store, Brick-and-mortar Marketing
- Intellectual Property
- Intellectual Property Litigation
- Licensing
- Litigation and Class Action Lawsuits

- Product Packaging and Labeling
- Regulatory Guidance
- Technology
- Social Media
- Sports, Media and Entertainment
- Trademark Services
- Websites and E-commerce

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