

Third annual regulatory conference 2008

The latest cases, developments and practice trends in

Advertising Law

Explore the dramatic developments in the dynamic world of advertising

Tuesday 21 October 2008
Central London



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This strategically timed one-day conference will enable you to:

- Hear direct from the **Advertising Standards Authority** on the latest Codes and regulatory framework
- Examine the very real consequences, for retailers and businesses, of the **Unfair Commercial Practices Directive**
- Debate the challenges of implementing the **Audiovisual Media Services Directive**
- Study the latest contract agreements and case law relating to **celebrities**
- Analyse the latest case law relating to **comparative advertising**, especially the *O2 v Hutchison 3G* case
- Study the latest challenges relating to **prize draws, promotions and competitions**
- Discuss the latest trends, law and practice relating to **mobile marketing**

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Explore the dramatic developments in the dynamic world of advertising

BRINSLEY DRESDEN is Head of Media, Brands and Technology at Lewis Silkin. He advises on all aspects of advertising, marketing and sales promotion law and regulation, clearance work, and disputes with the regulatory authorities. He is also the Global Vice President of the Global Advertising Lawyers Alliance. Brinsley is named as the UK's leading expert advertising lawyer by the Legal 500 and Chambers Guide as well as Campaign magazine's "A-List".

SHAHRIAR COUPAL is the Code Policy Manager at the Committees of Advertising Practice (B/CAP), the self-regulatory bodies that write the UK's broadcast and non-broadcast Advertising Codes. His team assists B/CAP to maintain the Codes, for example by ensuring the Codes don't undermine the law and that they address public policy concerns. Shahriar's team has recently helped to introduce new rules that reflect the Consumer Protection from Unfair Trading Regulations and a new rule on permissible sound levels for TV advertisements.

JAMES WHITTAKER is a Partner at Addleshaw Goddard and the head of the Advertising and Marketing Group. He advises retailing and manufacturing corporate clients on a wide range of advertising and marketing matters including sponsorship, agency contracts, sales promotions, comparative advertising, copy clearance, product development and labelling and related intellectual property issues. His clients include Britvic, AIG, Michelin, Bentley, PZ Cussons, Akzo Nobel, Lloyds Pharmacy and one of the big four supermarkets.

RUPERT EARLE is a Partner at Bates Wells & Braithwaite specialising in media and public law. He advises on a broad range of advertising law and IP issues, including in a number of celebrity endorsement cases. He has acted for the Advertising Standards Authority in several judicial reviews. He has advised producers, wholesalers, retailers and regulators on trading law issues, including lotteries, labelling, privacy and counterfeiting, and defended numerous trading standards prosecutions. He also acts in libel, privacy, data protection and freedom of information litigation, including for national newspapers.

JAMIE BARNARD is the Legal Counsel for Unilever UK

PAUL BERNEY is the Managing Director of Mobile Marketing Association for Europe Middle East & Africa (EMEA).

GILES CROWN is a Partner at Lewis Silkin. He started at the Bar specialising in media law, then moved to be head of legal at TBWA UK Group, one of the largest advertising groups in the UK. Since joining Lewis Silkin, Giles has specialised in advertising, brand and intellectual property work particularly disputes and litigation. He has acted for Hutchison 3G throughout its long running comparative advertising dispute with O2. Giles is a member of the Advertising Lawyers Group, the British Brands Group and a Committee Member of the Branded Content Marketing Association. He is author of the leading textbook 'Advertising Law and Regulation'.

DAN HARRINGTON is a Partner at Couchman Harrington Associates, the market leading sports law firm. He specialises in all aspects of sports and media rights exploitation and protection with particular focus on sports marketing, broadcasting, technology, new media and image rights.

VICTORIA GASKELL is a Senior Associate at Olswang specialising in a variety of commercial and regulatory work for media clients. In particular she advises on arrangements for the creation, exploitation and distribution of content, including via the internet and mobile networks and on regulatory issues surrounding the use of content in the UK, particularly broadcast regulation. She also advises on the regulation of gambling services in the UK, particularly in the context of interactive television and other new media platforms, and the operation of prize competitions and promotions.

Why attend this conference?

The law surrounding advertising and marketing moves at an unbelievable pace and there are a plethora of new codes of practice constantly being introduced. Advertising Law will provide a one-stop shop for all those involved in advertising across a diverse range of industry sectors, giving a strategic look at the latest legislative developments by examining and debating some of the most important new challenges.

This annual conference, now celebrating three years, will:

- Review the latest advertising policy surrounding **gambling, alcohol and environmental claims**
- Assess the impact of the **Audiovisual Media Services (AVMS) Directive**
- Summarise the latest developments and regulatory position surrounding **celebrity endorsements**
- Clarify the confusion arising from the new **Unfair Commercial Practices Directive** and **Consumer Protection from Unfair Trading Regulations 2008**
- Debate the **BERR Interim Guidance** on interpreting the Regulations and the Pricing Practice
- Consider the latest case law particularly relating to **misleading marketing and aggressive selling techniques**
- Examine the new trends and legal position relating to **mobile marketing**
- Review **comparative advertising** policy, particularly in the light of the *O2 v Hutchison 3G* case

The panel of speakers, all chosen for their knowledge and experience, will debate the most challenging new developments in law and policy, and will examine latest trends in practice - come equipped with key questions and take away concise answers.

Who should attend?

- Advertising, media and IP in-house counsel
- Private practice lawyers
- Barristers
- Marketing managers and directors
- Advertising agencies
- Marketing agencies
- Publishers
- Regulators
- Chief Executive Officers
- Brand owners and sponsorship consultancies

PROGRAMME – Tuesday 21 October 2008

08.45 Coffee and registration

09.15 **Chairman's opening session**

BRINSLEY DRESDEN, *Partner, Media, Brands and Technology, Lewis Silkin*

Advertising Codes and regulatory framework

09.25 **The Advertising Standards Authority – self regulation update**

- 2008 developments to the advertising codes
- Where are we with important issues and regulatory developments (environmental claims; alcohol advertising; gambling advertising; CPRs)
- Examples of recent ASA adjudications
- How to get help with meeting the regulations

SHAHRIAR COUPAL, *Advertising Standards Authority*

Consumer Protection Regulation – developments since May 2008

10.05 **The Unfair Commercial Practices Directive/Consumer Protection from Unfair Trading Regulations 2008**

- Regulations came into force May 2008
- Effect on retailers' sales mechanics and pricing indications e.g. "buy one get one free" and the basis for showing sale prices – practical examples
- The new Pricing Practices Guide (BERR)
- BERR Interim Guidance on the Regulations
- What are the major changes – is it really an overhaul of the UK consumer trading law or is it just the same old thing?
- What new consumer protection rules on unfair commercial practices apply?
- Overview of the 31 prohibited practices
- Enforcement of Regulations

JAMES WHITTAKER, *Partner, Addleshaw Goddard*

10.50 **Questions and discussion**

11.10 Coffee

Audiovisual Media Services Directive

11.25 **The regulatory and commercial landscape of branded content: the Audiovisual Media Services (AVMS) Directive**

- What are the developments of this new Directive?
- Is it seen as a replacement for TV Without Frontiers Directive (permitting product placement as long as warnings are screened and will extend TV regulation to audiovisual material on the internet or on on-demand networks)

BRINSLEY DRESDEN, *Partner, Media, Brands and Technology, Lewis Silkin*

The regulatory approach and trends in celebrity advertising

12.10 **Celebrity endorsements**

- The willing celebrity: what needs to be agreed?
- Defining the endorsement, tying in the celebrity, exclusivity, product warranties, termination, morality clauses

- When can celebrity images be used without permission?
- Passing off, trade marks, developing privacy law and image rights, look-alikes/sound-alikes, Code provisions

RUPERT EARLE, *Partner, Bates Wells and Braithwaite*

12.45 **Questions and discussion**

Speakers joined by **JAMIE BARNARD**, *Legal Counsel, Unilever UK*

13.15 Lunch

Mobile technology – policing and regulatory challenges

14.00 **Mobile/digital marketing and the use of mobile technology in advertising**

- Codes of practice
- Policing – is this just impossible?
- Regulation of advertising over the internet
- Data Protection - the latest challenges in implementing data protection legislation

PAUL BERNEY, *Managing Director, Mobile Marketing Association, Europe Middle East & Africa (EMEA)*

Comparative advertising – impact of latest case law

14.45 **Comparative advertising**

- New legislative framework for comparative advertising
- Implications of key ECJ decision in *O2 v Hutchison 3G*
- Outstanding issues following *O2 v Hutchison 3G*
- Practical guidance for running comparative ads

GILES CROWN, *Partner, Media, Brands and Technology, Lewis Silkin*

15.30 **Questions and discussion**

15.40 Tea

Protection of official sporting events and the freedom of commercial expression

15.55 **The issue of protecting official sport event sponsors vs right of freedom of commercial expression and fair competition**

- Ambush/guerrilla marketing – methods used in this form of marketing
- Contract/ticket terms

DAN HARRINGTON, *Partner, Couchman Harrington*

The Gambling Act challenges – the use of advertising Codes especially in prize competitions and promotions

16.35 **The Gambling Act and advertising rules – challenges so far relating to prize draws, promotions and competitions**

- Prize competitions
- Broadcasting advertising
- CAP Codes

VICTORIA GASKELL, *Senior Associate, Media, Communications and Technology Group, Olswang*

17.15 **Questions, discussion and debate**

17.30 Chairman's summary and close

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