

MEDIA MENTION

Scott Delacourt Discusses FTC Advertising Enforcement Action Against U.S. Retailer

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Scott D. Delacourt, chair of Wiley Rein's Federal Trade Commission (FTC) Practice, was quoted in a March 15 *Law360* article regarding the FTC's recent enforcement action against Lord & Taylor. The retailer agreed to settle charges that it deceived consumers by not disclosing that a magazine article and Instagram campaign were paid advertisements for a Lord & Taylor clothing line. The agency said Lord & Taylor did not tell consumers the author of the article was paid to endorse the clothing line, or that the retailer paid 50 fashion "influencers" to wear a dress from the line and post photos on Instagram.

According to the article, this is the FTC's first enforcement action on native advertisements—which have a similar appearance to non-promotional content—since the agency detailed its expectations for this emerging form of digital advertising in a December 2015 enforcement policy statement.

"A message to advertisers is that there is risk in innovating when they're feeling their way in this space," said Mr. Delacourt. "The campaign that Lord & Taylor came up with was pretty innovative and had an enormous reach with a low cost, and while Lord & Taylor seemed to have a hand in giving the consumer some information that would suggest this was an advertisement, the FTC in this decision is saying that wasn't enough."

"There appears to still be room for creativity moving forward," Mr. Delacourt added. "The December guidance was not proscriptive in requiring a particular approach to making disclosures. What this action seems to say is that identifying the brand or seller in the

Related Professionals

Scott D. Delacourt
Partner
202.719.7459
sdelacourt@wiley.law

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FTC Regulation

contact information is not sufficient and that more than that is needed.”

To read the complete article, please [click here](#).