



BOOTY FROM THE MPA HOTLINE TEAM

A few gold nuggets from the legal front

Consumer Review Fairness Act of 2016

Makes illegal clauses in contract that prohibit public criticism of companies by their customers (i.e., consumer “gag orders”).

It also bars a business from imposing a penalty or a fee on a client if they write a bad review.

The Federal Trade Commission (FTC) is given enforcement authority.

Cross-border Advertising

Online reviews and endorsements can be key to consumers' decision-making. Surveys show that over 70% of American consumers turn to online sources before making a purchase. If you advertise internationally (e.g., Canada), you'll want to review new guidance published by the International Consumer Protection Enforcement Network (ICPEN).

ICPEN is a network of consumer protection authorities from nearly 60 countries that engage in cross-border cooperation. It coordinates a cross-border complaint website, econsumer.gov, which allows consumers to file complaints against businesses based in other countries.

The documents provide examples and practical advice on implementing these principles, and also contain links to laws, business guidance, and enforcement policy statements for ICPEN member countries including Australia, Canada, Denmark, France, Norway, the United Kingdom and the United States.

Federal FOIA (FOIA Improvement Act of 2016) Amendment Highlights

Makes permanent the presumption that all government records are public.

Requires the government to turn over documents shielded by several broad exemptions after 25 years.

Institutes a new central website designed to handle records requests that should make it easier for citizens to use FOIA.

Requires the government to automatically post frequently requested documents, meaning materials could be accessible to a much wider audience (“release to one, release to all”). As of December 2016, the Department of Justice was soliciting public comment on the draft policy.

FTC's New Guidance on Screening Tenants

The Hotline Team gets a fair number of questions relating to housing (on behalf of customers looking to place ads). Although we caution MPA members not to provide legal advice to customers, we have the sense that this advice is sometimes ignored (!) in order to build relationships. In that spirit, we provide the following information:

Do you have customers that use background checks to screen tenants? Or a customer provides those background checks to landlords? They need to comply with the Fair Credit Reporting Act (FCRA). The FTC's new guidance for landlords and for tenant background screening companies can help.

In addition, when you're done using a consumer report, you must securely dispose of it. For more information, read [Disposing of Consumer Report Information? Rule Tells How.](#)

Public Notice – Do Your Part to Demonstrate the Importance of Notice in Newspapers!

MDEQ Acknowledged Failure To Notify Public About Nestle Water Request

In early December 2016, MDEQ director Heidi Grether acknowledged that Nestle's request to increase the amount of groundwater it pumps in Osceola County was not advertised and noticed in the way it should have been. Notably, she made this admission despite Nestle's pointing out that its draft permit was online for 42 days with no objections lodged.

This is a very good example of why public notices in newspapers are critical. Please discuss this situation with your legislators. Also, if you learn of similar issues, make sure to make MPA headquarters aware.

Social Media Policies and Banning Government Employee Speech

The City of Petersburg's Social Media Policy was found to be an unconstitutional blanket prohibition on all speech critical of the government employer. The court found that such speech is the paradigmatic matter of public concern. Check to see whether your public bodies have such improper prohibitions on speech by employees.

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