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202.344.4573**Honors and Awards**Winner of the 2010 and 2011  
*Chambers USA* Award for  
Excellence**News****FDA FVM's Four-Year Strategic Plan Takes Aim at Food Labeling, Dietary Supplements**

On April 22, the Food and Drug Administration's (FDA) Foods and Veterinary Medicine Program (FVM) unveiled its four-year plan to meet seven strategic program goals by 2016.

The plan calls out the increasing challenges of the FDA's food safety, nutrition, and animal health activities, while globalization, advances in science and technology, and shifts in consumer expectations drive change in the food and drug marketplaces.

Two of the plan's seven goals are of special interest to food marketers and advertisers.

Program Goal Four seeks to increase the accuracy and usefulness of nutritional data provided to consumers in order to reduce the risk of chronic disease and obesity. Among specific measures called out in the goal are:

- updating the nutrition facts label, including potentially giving greater prominence to calorie declarations and front-of-package nutrition labeling;
- updating how serving size information, daily values and key nutrients are communicated;
- implementing point-of-purchase labeling regulations for restaurant menus and vending machines; and
- publication of a final rule on the use of the term "gluten-free."

Program Goal Five encourages reformulation of food products to provide healthier choices and ensure the safe production of dietary supplements. Among specific measures called out in the goal are:

- encouraging the food industry to reduce the amount of sodium included in packaged foods and served in restaurants;
- reducing industrially-produced trans fats in the food supply; and
- developing and implementing strategic, risk based compliance and regulatory strategies to address dietary supplement safety issues and to advance pre-market oversight and post-market surveillance of dietary supplements.

[Click here](#) to read coverage of the FVM's strategic plan in *Food Safety News*.

[Click here](#) to download a copy of the FVM's strategic plan.

**Senate OKs USPS Changes**

On April 25, the U.S. Senate approved a bill that moves Congress one step closer to overhauling the struggling U.S. Postal Service (USPS). The bipartisan measure passed 62 to 37.

The measure would give the USPS almost \$11 billion to pay off its debts and offer buyouts or early retirement to a large number of staff. The bill modifies mail service standards to allow slower delivery in some cases and permits the USPS to end Saturday mail deliveries in two years, if financially necessary.



Law Firm of the Year, National Advertising, *U.S. News and World Report*, 2011



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[www.Venable.com/Advertising-and-Marketing](http://www.Venable.com/Advertising-and-Marketing)

Business groups that rely on the mail remain hopeful that Congress will strike a deal before May 15, when the USPS plans to resume closing post offices and processing facilities.

The House version of the bill, sponsored by Rep. Darrell Issa (R-CA), has not yet been scheduled for a vote. His bill allows the USPS to end Saturday mail deliveries, streamline postage rates and require postal workers to pay the same health insurance premiums as federal employees.

The Issa bill also establishes a financial control board to overhaul the USPS's finances as well as a commission to recommend which postal facilities should close.

[Click here](#) to read coverage of the bill in the *Washington Post*.

## Ohio AG Announces Charitable Solicitation Settlement With InfoCision

On April 20, the Ohio Office of the Attorney General (AG) announced a settlement with Akron-based InfoCision Management Corporation, a for-profit company that makes solicitations on behalf of charitable organizations.

The AG's office alleged that the company's solicitation practices violated several sections of the Ohio Charitable Organizations Act, including making misleading statements, failing to make required disclosures and failing to comply with state filing requirements. InfoCision denies the allegations.

Under the settlement agreement, InfoCision must comply with all Ohio state laws regulating charitable solicitations and pay \$75,000 to the AG's office. Other conditions of the settlement include:

- ceasing all misleading behavior and any misrepresentations about the percentage of donations that a charity will receive;
- for two years, submitting a sample script and pledge form to the AG's office for review before starting a solicitation campaign;
- for one year, submitting at least 15 audio recordings of solicitation calls each month to the AG's office for review;
- clearly and conspicuously disclosing its status as a professional solicitor, its name, and the charity's name and address during solicitations; and
- paying stipulated penalties for any future violations of filing and disclosure requirements.

[Click here](#) to read the Ohio AG's press release and view a copy of the settlement.

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### Analysis

## Flash Mobs Can Generate Buzz, Legal Issues

"Flash mobs," sudden gatherings of people devised to draw attention to an issue or product, have become a popular tool for marketers, write Venable partners [Randal M. Shaheen](#) and [Amy Ralph Mudge](#) in a post on Venable's advertising law blog, [www.allaboutadvertisinglaw.com](http://www.allaboutadvertisinglaw.com).

However, they write, marketers seeking to leverage the power of a flash mob should consider criminal, property, tort, intellectual property, privacy, First Amendment, and entertainment law issues before moving forward with the stunt. Even the Telephone Consumer Protection Act should be considered if marketers plan to communicate with participants.

Although efforts to regulate flash mobs bump up against the First Amendment right of free speech, there can still be consequences for marketers. Shaheen and Mudge write that "planning a flash mob can be grounds for criminal charges if any aspect of the event is illegal." In addition, the plan could conflict with state or local laws that may "affect the ability of groups to congregate in certain areas or engage in certain behaviors." The post calls out best practices for organizers of flash mobs, such as establishment and communication of ground rules and working within the Word of Mouth Marketing Association's industry guidelines and standards of conduct.

[Click here](#) to read the post by Shaheen and Mudge on Venable's advertising law blog, [www.allaboutadvertisinglaw.com](http://www.allaboutadvertisinglaw.com).

## FDA Releases Global Engagement Plan

The FDA recently issued a report detailing its plans for increased global engagement to ensure the safety and quality of foods, drugs, medical devices, and other products imported into the United States, writes Venable partner [Ralph S. Tyler](#) in a recent client alert. In this Global Engagement Report, the FDA says that heightened attention to international commerce is needed in light of U.S. consumers' increasing use of products from non-U.S. manufacturers and facilities, which has resulted in "increased potential risks to the U.S. public."

The report observes that clinical studies of foreign products are often conducted in "nations with limited regulatory capacity," and thus confirming the reliability and quality of clinical trials on foreign products sometimes complicates FDA reviews of product applications.

The FDA's Global Engagement Report includes the following initiatives:

- the FDA has opened offices in China, India, Latin America, Europe, South Africa, and the Middle East in efforts to obtain greater knowledge of the regulatory systems of other countries, foster relationships with foreign regulators, and develop measures for prompt and thorough inspection of foreign facilities;
- the FDA proposes to work with the foreign governments to help strengthen their regulatory systems;
- the FDA will collaborate with foreign governments to achieve greater harmony in global science-based regulatory standards; and
- the FDA will work with foreign regulators to develop tools for effectively identifying products that pose the greatest health risks and appropriately responding to such health risks.

[Click here](#) to read Tyler's client alert about the Global Engagement Report.

[Click here](#) to download a copy of the FDA's Global Engagement Report.

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## Events

### **ACC Quick Hit: "New Developments in Mobile Privacy"**

May 3, 2012, 12:00 p.m. EDT

As mobile device usage explodes, mobile privacy has become a focus of media and regulatory attention. The California Attorney General, Federal Trade Commission and industry groups have all recently weighed in on mobile privacy. What's behind the headlines? Please join Venable attorney [Julia Tama](#) who will review new developments, including the Digital Advertising Alliance's mobile initiative, to help you get your bearings in this evolving legal landscape.

ACC members may sign up for this teleconference at [ACC's website](#). If you are not an ACC member and wish to participate, please contact Paul Goatley, Legal Resources Coordinator, at [goatley@acc.com](mailto:goatley@acc.com) and mention Venable to receive an invitation to participate.

### **New York City Bar Center for CLE - New York**

May 4, 2012, 9:00 a.m. to 12:30 p.m. EDT

Please join Venable partner [Melissa Landau Steinman](#) when she presents "[Sweepstakes, Promotions and Marketing Laws: Comprehension & Compliance](#)" on Friday, May 4, 2012. Topics of discussion will include the laws governing sweepstakes and skill contests, social media, mobile marketing, drafting official rules and disclosures, use of intellectual property, and the gift-card/coupon interface.

To register to attend this event in person, please [click here](#).

To register for a live webcast of this event, please [click here](#).

### **ERA'S Government Affairs Fly-In 2012 - Washington, DC**

May 7-8, 2012

Please join Venable at the Electronic Retailing Association's 2012 Government Affairs Fly-In. The event, which takes place in Washington, DC from May 7-8, is an outstanding opportunity to learn more about

the regulatory and legislative efforts affecting the electronic retailing industry and to meet with lawmakers and senior agency officials. Venable's **Jeffrey D. Knowles** will be among the dozen senior-level speakers from Capitol Hill, federal regulators, industry self-regulatory bodies, policy think tanks and the electronic retailing industry during this important two-day event.

#### **Response Expo 2012 - San Diego**

May 15-17, 2012

Please join Venable at the Response Expo 2012. The event, which takes place in San Diego from May 15-17, brings together key decisionmakers and industry leaders from the corporate marketing arena and direct response spectrum. Please stop by our booth and meet Venable's **Advertising and Marketing attorneys**. Venable is the proud sponsor of the Martini Party networking event, which will occur on May 16 from 4:30 p.m. - 6:00 p.m.

#### **ACC's Social Media Day - Darien, CT**

May 18, 2012

Social media has created a new frontier for many companies. The legal issues relating to social media evolve every day. This day-long program at the Woodway Country Club in Darien, CT will prepare legal professionals to confront this new reality and manage the resulting legal issues. Please join Venable partner **Leonard L. Gordon** when he presents "Managing Compliance Risks: Privacy, Consumer Protection and Social Media" on May 18, 2012 from 10:30 a.m. - 11:45 a.m. EDT.

For registration information, please [click here](#).

#### **ACI Litigating & Resolving Advertising Disputes - New York**

June 19-20, 2012

Venable is a proud sponsor of the ACI Litigation & Resolving Advertising Disputes Conference. Please join Venable's **Thomas E. Gilbertsen** and **Amy Ralph Mudge**. Gilbertsen will speak on the explosion of class action lawsuits, and Mudge will moderate a panel of judges providing the judicial perspective on advertising litigation.

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