

ADVERTISING

Scope of Practice

Our Advertising, Marketing & Promotions Team and our Entertainment, Media & Technology Group overlap. We are experienced in preparing endorsement, sponsorship, sports marketing and entertainment marketing agreements, licensing and protecting intellectual property rights, structuring branded entertainment initiatives and customer loyalty programs, reviewing and clearing advertising copy for use in online and offline media, complying with domestic and European Union privacy concerns, preparing advertising agency and media agreements, and advising clients in complying with state and federal regulations governing fantasy sports initiatives and some of the highest profile contest and sweepstakes promotions in the country. Our work generally covers the full spectrum of advertising, marketing and promotion issues, including each of the broad categories identified below.

(1) **Sports Marketing/Sponsorships/Endorsements:** Sheppard Mullin's Sports Industry Team offers the multi-disciplinary expertise necessary to provide full-service legal counsel to major brands, teams, event organizers, media companies and others involved in sports-related transactions or disputes. Our transactional attorneys have a great deal of experience in ambush marketing initiatives and in structuring and negotiating sports marketing agreements with every major professional sports league in the United States, as well as countless individual franchise teams and active-roster players, various college athletic departments, non-domestic sports teams and leagues, major entertainment venues and extreme sports event organizers. Our litigators have extensive trial and arbitration experience with leagues, players associations, teams and the various guilds and unions affecting the sports marketing industry.

(2) **Entertainment Marketing:** Sheppard Mullin's Advertising Practice has a wealth of experience in handling branded-entertainment marketing initiatives for major brands and prominent advertising agencies on behalf of their brand clients as well as handling joint promotion agreements, online, digital and mobile marketing initiatives and other activation campaigns for various brands and prominent cable television networks, as well as many of the major Hollywood studios on the biggest tent-pole motion picture releases every year.

(3) **Fantasy Sports, Contests & Sweepstakes:** Sheppard Mullin's Sports Team and our Advertising Practice help clients structure and execute online fantasy sports initiatives, interactive gaming programs and online subscription gaming sites, we represent publishers and networks in evaluating whether accepting ads for online gaming sites would expose such clients to potential liability, and we are regularly involved in all aspects of some of the highest-profile contest and sweepstakes promotions in the country.

(4) **Music:** Sheppard Mullin's music industry savvy includes representing high-profile performing artists and promising new artists in all aspects of their music career, as well as our historical representation of advertising agencies, television networks, and movie studio institutional clients in both transactional and litigation matters involving soundtrack licensing, contractual and guild music clearances, publishing, and other legal issues associated with the use and ownership of music. In addition to being well versed in handling conventional music industry transactions and disputes, Sheppard Mullin's attorneys also counsel cutting edge companies on resolving issues as they pertain to the digital distribution of music over the Internet.

(5) **Traditional & Emerging Media:** Sheppard Mullin's Advertising Practice and Entertainment, Media & Technology Group regularly advise a major online search engine on various aspects of its search and display advertising initiatives. Beyond that, we regularly advise clients on structuring their online and mobile marketing campaigns and information collection policies and practices in ways that address increasing privacy concerns but still tap into consumers' changing media habits, developing website terms and conditions and privacy policies, structuring COPPA, DMCA, CDA, EU Safe Harbor and other regulatory compliance, negotiating back-end hosting agreements, third-party development agreements and related technology licensing agreements, and advising on the monetization of online content, including revenue sharing arrangements. The Practice also advises clients on such topics as domain name acquisition and luxury brand protection, and pursuing counterfeiters and infringing importers and otherwise litigating brand protection disputes that arise from the unauthorized distribution or other use of the brand or

products online.

(6) **Clearance and Compliance Review & Dispute Resolution:** To minimize the risk that the creative message will be challenged by private plaintiffs or government regulators, Sheppard Mullin's Advertising Practice reviews client advertising copy to make sure that the express and implied claims being made in the ads can be substantiated and that the client has the right or privilege to use any intellectual property images, including sound images, that are included in the campaign materials. The Practice's clearance review covers copyright, trademark, privacy, publicity, defamation and related First Amendment issues, FTC regulatory "guidelines", comparative advertising concerns and television network standards and practices to the extent clients contemplate broadcasting the advertised message. The Practice also litigates disputes that arise in connection with comparative advertising campaigns, both in state and federal court and before the NAD.

(7) **Production and Distribution:** Contractually documenting relationships between advertisers and their agencies, media buyers, and production units is an important and increasingly creative first step that should not be overlooked. Sheppard Mullin's Advertising Practice counsels clients on structuring these relationships so that the rights, obligations, and expectations of the parties are clearly communicated and protected in the inevitable event such relationships come to an end. In addition, the Advertising Practice's hands-on familiarity with all aspects of advertising and television commercial production, including drafting and negotiating talent agreements and music and film clip licenses and addressing American and Canadian guild concerns, provides clients with confidence that the production of their advertising message will proceed smoothly. Finally, our Entertainment Group represents major studios, independent producers, television networks, new media ventures and other entertainment-related entities in every aspect of development, production, finance and distribution of motion pictures, television series and other entertainment content, including specialized services with respect to complex chain of title and copyright termination issues.

(8) **Gift Certificates and Rebates:** With an increasing number of state laws prohibiting dormancy fees and expiration dates, as well as imposing certain redemption obligations, gift certificate and rebate programs are under increased scrutiny from government regulators and private citizens. Sheppard Mullin's Advertising Practice has extensive experience litigating on behalf of and counseling major national retailers, manufacturers and others on issues related to gift cards, gift certificates, rebates and loyalty programs, advising clients on pending legislation, and structuring gift card, rebate and loyalty programs in ways that minimize the risk that they will be challenged.

(9) **Going Global:** With the worldwide reach of the Internet and the globalization of product markets, international advertising regulations are playing a broader role in advertising review and compliance procedures. The Advertising Practice's network of international law firms makes Sheppard Mullin a one-stop shop for our clients' global advertising needs.