

Data, Digital Media and Ad Tech

Data is the lifeblood of many industries, from new and emerging technology platforms to more traditional sectors and business models. At the same time, consumer privacy issues are now the focus of increasing scrutiny from consumers, regulators and legislators, resulting in a torrent of new laws and requirements. As a leader in the marketing communications space, we are uniquely positioned to advise clients regarding how these issues affect the digital media and ad tech industries. Our attorneys help clients address crucial compliance issues in areas where the lack of precedent makes a simple “yes” or “no” problematic. We advise digital media companies of all sizes and types — from large public multinationals to small and aggressive start-ups — on the role of data in helping their businesses grow and thrive.

Structuring Agreements

Our attorneys regularly draft agreements in which the usage and exchange of digital information is intrinsic to the deal. At a time when the very definition of personal data is far from settled, clients turn to us to address both the data components of these agreements and the compliance issues arising from them. We help them determine their legal responsibilities regarding the data flowing into and out of their platforms, and we bring heightened levels of diligence and documentation to the structuring of their contracts. We work to ensure that these contracts are compliant with all relevant federal, state, international and self-regulatory obligations.

A Proactive Approach

In this complex, constantly changing regulatory environment, our clients inevitably find themselves in the uncomfortable position of being rigorously compliant one day and potentially in violation the next. Accordingly, they count on us to address their compliance risks proactively as policies are being developed, agreements are being drawn and business plans are being implemented. The deals we arrange are structured to comply with the most aggressive privacy laws that apply — for example, the California Consumer Privacy Act (CCPA) and the General Data Protection Regulation (GDPR) — with the aim of avoiding the legal, financial and reputational repercussions associated with their violation.

Representative Matters

- Represented an ad tech company in connection with multiple third-party subpoenas and DOJ investigations into the practices of other industry players. Advised on sensitive issues over sharing confidential business strategies and critiquing the practices of other industry participants.
- Advised an ad tech company in connection with the launch of a new advertising service for Chinese advertisers targeting the U.S. market, and U.S. advertisers targeting the Chinese market. Synchronized privacy and media legal requirements and best practices between the two jurisdictions.
- Represented one of the world's largest media buyers in the negotiation of agency-wide agreements with DSPs and other critical media buying platforms and updated templates to address novel content production issues.

- Negotiated contract protections and privacy and security agreements for a media company in connection with blockchain projects, while simultaneously performing due diligence on various blockchain service providers.
- Advising a leading advertising agency on compliance with the FTC Endorsement Guides and FTC Native Advertising Guide. Reviewed native and influencer campaigns; assessed the adequacy of disclosures; structured social media policies, influencer/endorser guidelines, term sheets and contracts, and drafted contracts for influencers and native content vendors.
- Helped a leading multinational company known for publishing, selling and distributing books and educational materials for schools, teachers, parents and children to update the privacy policy covering its child-directed websites and apps to ensure compliance with COPPA and other privacy laws.