Think Before You Pink: Be Aware of Cause-Marketing Laws

For-profit companies and nonprofit organizations are increasingly leveraging the power of cause marketing for their mutual benefit. One major testament to its motivational power is that almost everyone now knows October is Breast Cancer Awareness Month. Other successful examples of cause marketing include New Balance teaming up with Susan B. Komen for Lace Up For the Cure®, Starbucks spreading the message of RED and the Global Fund to Fight AIDS, and Warby Parker's Buy a Pair/Give a Pair of eyeglasses program. But before jumping in, be aware that launching a cause-marketing campaign requires legal planning. Many states regulate cause-marketing ventures to protect consumers from false or misleading sales promotions, and to ensure that the designated charity actually receives its promised share of the proceeds. Laws governing marketing a cause through retail stores or through the internet include:

- Several states require for-profit companies involved in cause marketing, called "commercial co-venturers," to register for a license before offering for sale any cause-marketed products or services in the state. Two states require filing a bond to secure performance.
- Some states require commercial co-venturers to file annual activity reports detailing total dollar amounts raised, disbursed to the charity and retained by the commercial co-venturer.
- Several states require the commercial co-venturer and the charity to execute and file with the state a written agreement defining the promotion and each party's responsibilities. A few states also require the contract contain specific provisions.
- Many states require the commercial co-venturer to keep records regarding the cause marketing efforts and results and provide reports to the state on its request.

In addition, every ad promoting a cause should contain disclosures such as:

- The charity's name, address and telephone number
- The commercial co-venturer's name
- A description of the promotion's charitable purpose
- The dates and other material terms of the promotion
- The amount of each purchase that will benefit the charity
- The percentage of each purchase that is tax deductible
- Any limit on the commercial co-venturer's contribution, such as a maximum overall contribution amount

Through planning and knowledgeable counsel, companies can effectively manage relationships with charities and maximize their promotional value. Plus it's gratifying to know it's all for a good "cause"! Lori Beam is an attorney at Seigfreid Bingham where she chairs the firm's Advertising, Marketing and Promotions practice group. Contact her at lbeam@sb-kc.com or 816-421-4460. *This article is general in nature and does not constitute legal advice. Readers with legal questions should consult with an attorney prior to making any legal decisions.