

New Guidelines for Cause Marketing

The New York Attorney General recently issued [guidelines](#) entitled "Five Best Practices for Transparent Cause Marketing." A cause marketing promotion, also described as a "commercial co-venture," is an arrangement in which a for-profit entity advertises to the public that a consumer's actions, usually the sale or use of a product, will result in a donation or other benefit to a charity.

In issuing these cause marketing guidelines - perhaps the most significant guidance released by any state Attorney General in recent years - the New York Attorney General cites the need to promote transparency in the billion-dollar-a-year industry of cause marketing. Although the impact of these guidelines on the enforcement of unfair and deceptive advertising practices in New York State is yet to be determined, the BBB Wise Giving Alliance has endorsed the guidelines, and two of the U.S.'s largest breast cancer charities - Susan G. Komen for the Cure and the Breast Cancer Research Foundation - have agreed to follow them. At a minimum, it is clear that the Attorney General is paying attention to commercial co-ventures.

Here's a rundown of the New York Attorney General's recommendations.

1. "Clearly Describe the Promotion"

Key information should be disclosed clearly and conspicuously. Advertisements, websites and product packaging used in the cause marketing campaign should contain the following information, displayed "in close proximity" to any marketing copy and in an appropriate format and size that will allow consumers to make informed decisions at the point of purchase:

- The name and mission of any charity receiving a donation;
- The benefit the charity will receive from each product or service purchased;
- Any minimum amount guaranteed to the charity, any cap on the donation or any flat donation;
- Any consumer action required (or any other restriction on the donation) in order for the donation to be made; and
- The start and end dates of the campaign.

2. "Allow Consumers to Easily Determine the Donation Amount"

Use and disclose a fixed dollar amount (e.g., \$1 from every purchase of X product), or if doing so is not practicable, use and disclose a fixed percentage of the retail purchase price, on advertisements, websites and product packaging so that consumers can easily figure out how much money will be going to the charity. The guidelines suggest including a "donation information" label on products or websites in connection with the cause marketing campaign, along the lines of the following:

DONATION INFORMATION	
Name of Charity	[Charity Name]
Donation Amount	\$1 from every purchase of X product
Limitations on Donation	\$500,000 maximum donation
Dates of Promotion	January 1, 2013 through June 30, 2013
More Information	[www.product.com]

3. "Be Transparent About What Is Not Apparent"

Disclose any information that a consumer might or should want to know but that might not be apparent, including:

- If a flat donation has been or will be paid to the charity, be clear that consumer action will not result in a donation to the charity.
- If any part of the contribution made by the company to the charity is an in-kind donation, disclose the type and amount of the donation.
- In a case where a ribbon, color, logo or other item associated with a charitable cause is used in a commercial co-venture arrangement, disclose clearly whether the purchase of a product or the use of a service will trigger a charitable contribution.
- If there is a minimum guaranteed donation to the charity (i.e., a "floor"), ensure that there are enough products available for sale to exceed the minimum. If there is a cap on the donation, on the other hand, do not "saturate the market" with products.

4. "Ensure Transparency in Social Media"

The terms of any social media cause marketing campaign should be clearly and prominently disclosed in conjunction with any accompanying online marketing efforts, including:

- The amount that will be donated to charity per consumer action;
- The name of the charity that is receiving the donation(s) in conjunction with the campaign;
- The dates of the campaign; and
- The floor or cap on the donation, if applicable.

During the campaign, companies should also be able to track donations in real-time, so that when the campaign ends and/or the cap or floor on donations is met, the campaign is discontinued or it is made clear to consumers that any subsequent actions will not result in a donation to the charity.

5. "Tell the Public How Much Was Raised"

Companies and charities should disclose on their websites information regarding all active and recently completed cause marketing campaigns. And once the campaign is complete, this information should include the amount of the charitable donation generated by each campaign.

If you have questions about the New York Attorney General's guidelines, contact Terri J. Seligman at 212.826.5580 or tseligman@fkks.com; H. Sujin Kim at 212.705.4828 or skim@fkks.com; or any member of the [Frankfurt Kurnit Advertising Group](#) or [Charitable Organizations Group](#).