

## Food

The Firm brings to bear decades of experience as inside counsel to food companies. We have a deep and broad understanding of food company objectives as well as the strategies and tactics for realizing them. While we know how to handle the ordinary range of legal issues that a manufacturer and marketer confronts, we also know how to guide food companies through the entire process of launching a new product, from developing concepts and protecting technology through selecting trademarks, satisfying food safety and labeling standards, and developing complete marketing programs that include ad copy, consumer promotions, pricing and trade marketing plans. For existing products, we can provide the same high level of know-how, experience and expertise for any piece of the marketing mix.

We have both the expertise to provide these legal services directly as well as the experience and practical know-how to enable your company to manage many of these issues internally, reducing the need for costly legal services. We can develop policies and procedures that will work quickly and efficiently to achieve compliance in the highly competitive real world of food product marketing.

### Representative Matters by Lawyers in the Firm

- Development of a wide range of compliance programs, including review of marketing, sales, promotion and product distribution programs for compliance with antitrust and consumer protection laws. Compliance programs have included live training, computer-based training, podcasts, policy development, antitrust audits, social-networking tools, and risk assessment.
- Determining proper substantiation for advertising or labeling claims, including copy review procedures and scientific protocols to support nutrition claims, such as whether weight loss claims are supported by real world evidence.
- Handling legal challenges to advertising at the state, federal or NAD level.
- Legal review of consumer coupons and sweepstakes programs.
- Addressing fraudulent claims by customers, consumers, or competitors.
- Review of labeling for food products to comply with FDA, FTC and USDA regulations, including organic and natural claims, establishment of nutritional claims and ingredient lines of labels.
- Assisting in ensuring that organic products are certified by recognized agencies.

- Compliance with government health and safety regulations, import and export compliance and establishment of quality assurance programs.
- Review of consumer complaint policies, food allergen policies, manufacturing polices, and product testing procedures.
- Review of information protocols to assure that all information directed at consumers complies with state and federal regulations.
- Protocols for product recalls, to ensure that if a market withdrawal or recall is necessary, proper notification of customers, consumers and government agencies is accomplished, along with effective product retrieval.
- Reviews of advertising and promotion programs to ensure that promotional allowances and services are made available to all competing customers on a nondiscriminatory basis.
- Negotiation of a broad range of contracts such as distribution and brokerage contracts, manufacturing (private label) agreements.
- Defense of claims from terminated brokers or distributors.
- Counseling on public relations connected to food-matters.
- Working on public policy issues to address concerns of legislators and public interest groups on food-related issues at both the farm and consumer level.
- Dozens of acquisitions or divestitures of food businesses, many with government review. We have a deep familiarity with the review processes at the Department of Justice and Federal Trade Commission, and can marshal the evidence necessary to expedite antitrust review.
- Employment matters such as trade secret protection, confidentiality, noncompetition, and non-solicitation agreements, and claims of wrongful termination, discrimination, harassment, and retaliation

## **In litigation, including pre-litigation resolution of disputes, we have represented food companies in:**

- Licensing and distribution disputes, including termination of distributors with state and federal antitrust, contract, and tort issues raised.
- Defense of claims and lawsuits involving food recalls and personal injuries due to food contamination, such as products contaminated with listeria. We have handled a full range of product liability actions, including strict liability, breach of warranty, and failure to warn negligence suits, for national and local companies.

- Prosecution of claims against commercial insurers to cover their defense and indemnity obligations, even those arising from long-tail claims from businesses no longer operated by the company.
- Litigation based on claims of trade secret violations, wrongful termination, discrimination, harassment, and retaliation litigation.
- Initiation of opt-out plaintiff antitrust cases, with recoveries far in excess of class amounts.
- Counseling about distributor terminations that resulted in recovery of balances due without significant business disruption or filing of litigation.
- Defense of class action claims alleging price fixing or price discrimination based on promotional programs for new dealers, meeting competitive offers, geographic pricing, and functional discounts.