From brick-and-mortar retailers to online merchants, luxury brands to big-box stores, start-ups to Fortune 500 corporations, and fashion retailers to hotels and restaurants, Steptoe’s Retail & E-Commerce group provides a “one-stop shop” for the legal needs of its clients, which span the globe in every commerce channel.

Our group has decades of experience defending retailers in high-stakes litigation, acting as industry thought leaders on current “hot issues” and forecasting emerging trends. Our deep understanding of the business of the industry allows us to partner with our retail clients to help them succeed in the fast-paced, highly competitive, and increasingly global retail sector.

We are nationally renowned for defending retailers in complex consumer class actions, including deceptive pricing, false advertising, and privacy cases involving the Fair and Accurate Credit Transactions Act (FACTA), Telephone Consumer Protection Act (TCPA), California’s Invasion of Privacy Act (CIPA), and California’s Song-Beverly Credit Card Act, as well as related statutes in other states. We have also defended scores of automatic renewal cases, claims arising out of alleged violations of gift card laws, and over 100 Americans with Disabilities Act (ADA) cases across the country regarding website accessibility and Braille gift cards.

Steptoe’s retail-related services extend far beyond litigation. Our collaborative, international team of lawyers from a multitude of practice areas and jurisdictions offers a complete package of legal solutions to retail clients’ most pressing business matters.

Coronavirus

Our cross-disciplinary team has been at the forefront of advising retailers on every key issue confronting retailers, including those relating to the supply chain, employment, privacy, and regulatory compliance.

Deceptive Pricing Lawsuits

Perhaps the biggest threat to the industry in recent times has been the 100+ class action lawsuits alleging deceptive pricing practices. Because the law in this area is currently in flux, it is crucial that retailers with an outlet presence, heavily promotional retailers, and businesses that feature frequent sales (both online and in store), consult experienced counsel for risk management advice. We have successfully defended more of these cases than any other firm in the country, with an impressive track record of dismissals, successful early motion practice, defeating class certification, winning summary judgment, and prevailing on appeal in seminal cases. Our pricing counseling practice provides trainings to prominent retailers’ marketing and finance teams to craft pricing models that effectuate business goals while also complying with applicable laws.

Green Marketing

Retailers and manufacturers have increasingly been advertising products with descriptors such as “eco-friendly,” “green,” “organic,” and “sustainable.” Predictably, plaintiffs and government enforcers have targeted businesses for “greenwashing” – a term coined to describe the act of exaggerating touted environmental benefits. We have advised many clients on how to reduce risk while promoting their environmental efforts.
Advertising Compliance

Advertising is the lifeblood of commerce. At its best, it can educate and excite consumers and drive sales. At its worst, it can educate and excite plaintiff class action lawyers and drive them to the courthouse. Steptoe’s Retail team understands that the role of advertising counsel is not simply to identify risk, but to help clients craft messages that educate and move consumers, while managing litigation risk. Our lawyers monitor the latest class action filings nationally every day, in addition to NAD decisions and Lanham and FTC actions. We put our knowledge to work, helping keep our clients out of litigation while meeting their commercial objectives.

ADA Website Accessibility & Braille Gift Card

Scores of retailers have been targeted by claims they violate the Americans with Disabilities Act by failing to make their websites accessible to sight-disabled users. Our group has defended retailers in over 100+ of these matters across the country and has a robust practice advising clients on developing compliant practices to mitigate risks, as well as to assist in partnering with dedicated professionals to provide remediation guidance to ward off future claims. We are also defending prominent retailers across the country in the new wave of Braille gift card ADA cases targeting retailers.

Automatic Renewal Laws

Although subscription-based services generally benefit consumers by offering simplicity and often lower prices, legal issues emerge when customers claim they did not knowingly agree to continue paying for future products or services. Steptoe has defended retailers that have been sued for alleged failure to abide by automatic renewal requirements, brought pursuant to both state and federal laws. Our team also advises retailers on development of compliant check-out procedures and user agreements.

Terms of Use

As more retailers are targeted for privacy- and contract-related claims based on their website privacy policies and terms and conditions, it is crucial that businesses ensure their terms are protecting rather than hurting them. We advise clients on how to get the most protection out of their online policies and how to comply with new privacy laws, including California’s CCPA and Europe’s GDPR.

Privacy & Technology

Emerging issues in e-commerce, information security, data protection, compliance with new privacy laws, and the interplay of blockchain and digital currency, are some of the issues we routinely advise retailers on to mitigate risks and stay competitive. Steptoe’s team includes privacy professionals dedicated to advising retailers on compliance with the California Consumer Privacy Act (CCPA) and similar laws in other states. Steptoe’s team regularly helps retailers navigate the rapidly changing patchwork of data breach notification laws, both in defending data breach claims, and upfront counseling to create compliant data protection policies and protocols.

Song-Beverly, PCI-DSS & Other Data Collection Issues

Collecting consumer data implicates a wide range of serious issues. California’s Song-Beverly Credit Card Act prohibits businesses from requesting and recording personal identification information from a customer who uses a credit card to purchase goods or services; at least 15 other states have similar laws. Retailers using portable check-out systems on cell phones or tablets must comply with the Payment Card Industry Data Security Standard (PCI DSS), which imposes a series of security requirements for how companies should process, store and transmit credit card information. Data breaches pose some of the most significant risk exposure to retailers, so we provide guidance to prevent breaches in the first place, as well as protocols in the event of a breach. We are experienced in defending retailers in litigation concerning retailers’ alleged sale of customer data to data brokers.

Social Media & Influencers

Over the last several years, the Federal Trade Commission has repeatedly identified sponsored social media endorsements as a high-priority issue, including issuance of warning letters to over 100 brands and influencers. We have prepared influencer training materials, prepared monitoring procedures, and drafted/revised influencer contracts.
Dynamic Pricing

The use of algorithms to set the price of an item for sale based on factors such as competitor prices or customer data allows for rapid, targeted pricing that can help retailers maximize profits. However, such dynamic pricing can also raise antitrust concerns regarding price discrimination and collusion among competitors—just like conventional pricing. We have helped clients develop dynamic pricing programs, counseled clients on specific issues related to dynamic pricing, and have hosted training sessions on this evolving area.

Related Services

Steptoe's retail-related services extend far beyond litigation. Our international team's interdisciplinary services include:

**Regulatory**

Steptoe's Washington DC Government Affairs and Public Policy team includes world-renowned government and policy practitioners providing regulatory solutions to the biggest issues impacting our retail clients. Steptoe brought the plaintiff's bar's abuse of the Americans with Disabilities Act in the context of website accessibility to the Department of Justice's attention. Prominent retail industry groups turn to Steptoe to prepare proposals to government agencies on their behalf for some of the biggest issues impacting retailers.

**Tax**

Tax planning and obligations in the areas of sales and use taxes, multi-state corporate income taxes, property taxes, online sales taxes after South Dakota v. Wayfair, and luxury and excise taxes, are some of the specialty areas our tax members provide to our retail clients.

**International**

Working in conjunction with our offices in Europe and Asia, Steptoe advises retailers on international issues, including international trade, government affairs, customs, export controls, transportation, and investigations.

**Employment**

Our employment team members defend retailers in employment disputes, employee benefit programs, workforce reduction planning, employee discipline, human resource policies, immigration issues, collective bargaining, contract maintenance, and unfair labor practice proceedings.

**Other Areas**

Representation in white collar, intellectual property, antitrust issues, product recalls, transactional matters, corporate acquisitions, product distribution, supplier and customer contracts, and real estate deals are some of the other specialty areas our team offers to our retail clients.
News & Publications

CLIENT ALERTS
'Tis the Season: Charitable Giving Presents Legal Obstacles for Retailers
December 18, 2020
By: Stephanie A. Sheridan, Meegan Brooks, Amanda C. Schwartz, Rebecca Robinson (Law Clerk)

CLIENT ALERTS
Draft Compliance Guidance for Imported Articles Containing PFAS Surface Coatings Released for Comment
December 17, 2020
By: Seth Goldberg, Sara Beth Watson

CLIENT ALERTS
Subscription-Based Programs' New Threat: NY Adopts CA's Stringent Automatic Renewal Law's Requirements
November 24, 2020
By: Stephanie A. Sheridan, Meegan Brooks

CLIENT ALERTS
California Voters Approve Expansive New Data Privacy Law, Shaking Up the CCPA
November 12, 2020
By: Michael Vatis, Daniel W. Podair

PRESS RELEASES
Daily Journal Names Crowther, Sheridan to 'Top Women Lawyers' List
November 4, 2020

CLIENT ALERTS
See Ya Later Alligator (Ban): California Losing Effort to Ban Exotic Skin Sales
October 27, 2020
By: Stephanie A. Sheridan, Meegan Brooks, Amanda C. Schwartz

CLIENT ALERTS
Relief at Last? Proposed 'Online Accessibility Act' Gives Retailers Hope on ADA Cases
October 26, 2020
By: Stephanie A. Sheridan, Danielle E. Vallone

CLIENT ALERTS
Five Key Takeaways from OFAC and FinCEN's Ransomware Advisories
October 20, 2020
By: Edward J. Krauland, Meredith Rathbone, Charles-Albert Helleputte, Michael Vatis, Jack R. Hayes, Evan T. Abrams

CLIENT ALERTS
California Attorney General Proposes More Modifications to CCPA Regulations
October 13, 2020
By: Michael Vatis, Daniel W. Podair

CLIENT ALERTS
California Extends Exemptions from CCPA for B2B and Employee Information
October 2, 2020
By: Michael Vatis, Daniel W. Podair
Events

WEBINARS

Antitrust Pitfalls for International Retailers
February 26, 2020
Speakers: Paul Hughes, John J. Kavanagh, Stephanie A. Sheridan

WEBINARS

Data Privacy for Retailers: Recent Developments in CCPA and GDPR
December 10, 2019
Speakers: Paul Hughes, Daniel W. Podair, David O'Sullivan

WEBINARS

Prop 65 Webinar for Retailers: New Warning Regulations Ahead
July 11, 2018
Speakers: Stephanie A. Sheridan, Carol R. Brophy

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Primary Contact

Stephanie A. Sheridan

Practices

Class Action Defense
Commercial Litigation
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Labor & Employment
Trademark
Tax
Corporate
Government Affairs & Public Policy
Customs
Property
Environmental, Product, & Mass Tort
Blockchain & Cryptocurrency
Steptoe's Retail & E-Commerce group provides timely updates on the emerging legal trends and hot topics that every retailer should know about.