

## KNOW YOUR RIGHTS:

# Advertising

The student press law center answers your most frequently asked questions about advertising in student media

**Q** Can an advertiser sue us for rejecting his ad?

**A:** The First Amendment does protect commercial speech, so an advertiser can bring a First Amendment claim if he can prove that a government official (including a teacher or a professor at a public school) rejected the ad for impermissible reasons, such as disagreeing with its viewpoint. This is one reason why students, not school employees, should set and enforce advertising standards.

**Q** Can the school force a student publication to reject ads for bars or alcoholic beverages?

**A:** At a K-12 school, probably yes. If the school argues that the ads encourage the use of substances illegal and harmful to a readership made up mostly of minors, the First Amendment would likely offer no help. At the college level, the federal courts are divided – but an outright ban on all mention of alcohol (or of establishments that serve it) would almost certainly be struck down as unconstitutional.

**Q** If someone advertises a service that turns out to be harmful, can the customers sue our publication for running the ad?

**A:** Unless the ad unmistakably screams “crime,” such as a solicitation to hire a hit-man, the answer is no. If a buyer is injured by a defective product or scammed by a disreputable business, his claim is against the vendor, not the medium that accepted the ad.

**Q** Is it legal to publish a classified ad seeking a “white” or a “Christian” roommate?

**A:** The federal Fair Housing Act, and a number of state anti-discrimination laws, makes such ads illegal – both for the person placing the ad and for the medium accepting it. Offers of housing cannot be conditioned on race, religion, gender, disability, family status, or any other protected category – except that a person sharing living quarters can express a gender preference.

**Q** We’re doing a “house ad” that encourages people to pick up the paper – can the ad reprint an old front page with our quarterback holding the Heisman Trophy?

**A:** Normally, you need a “model release” from identifiable people shown in advertisements, because people have a right to control how their images are used in association with commercial endorsements. But reprinting a likeness (or a screen shot) of your own publication is an exception, and no special consent is needed.

