



Super Bowl Commercial Highlights Pay Equity

Insights

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Many people watch the Super Bowl for the game. Others watch for the commercials. And perhaps even more watch for both. In years past, it would not have been uncommon for people to spend the Monday after the Super Bowl at the water cooler talking about the commercials with Clydesdales, puppies, talking frogs, or celebrities. But this year, and perhaps more so than any other year in recent memory, there were numerous ads that carried or otherwise promoted political and social messages.

Undoubtedly one of the most notable examples was Audi's commercial promoting pay equity in the workplace – likely the first-ever Super Bowl commercial directly addressing a workplace law issue. The commercial featured a father watching his daughter race in a soap box derby car against boys, wondering how she will be judged, valued, and compensated throughout her life and career, irrespective of her individual talents. The commercial ends with the message: “Audi of America is committed to equal pay for equal work. Progress is for everyone.”

Indeed, pay equity is a very hot issue right now across the country, and was deemed important enough for Audi to spend approximately \$10 million on its 60-second advertisement. The commercial is reflective of the fact that states are seeing an increase in legislation addressing gender pay gaps, the EEO-1 rules will soon compel most employers to report pay data broken down by gender, and there has been a significant uptick in equal pay litigation across the country.

Even where the laws have not yet compelled employers to follow specific compensation practices, or otherwise put limits on pay history inquiries, many large companies have already examined pay equity issues proactively. For example, some companies have invested time and resources to conduct substantial, company-wide audits to identify and address wage gaps. Others have announced mandatory equal pay initiatives for the same positions, regardless of previous pay, tenure, or experience. In fact, 28 notable companies signed the Equal Pay Pledge in June 2016, to affirm their commitment toward advancing the concept of equal pay.

All signs point to equal pay legislation and voluntary workplace measures being at the forefront of employment law trends in the foreseeable future. This is true even with the current uncertainty surrounding what changes might occur under the Trump administration with respect to EEO-1 reporting requirements, the Equal Employment Opportunity Commission, and the Department of Labor in the coming months and years. Audi's commercial reflects this new reality, and perhaps

may lead other companies advertising their product to cast an eye towards hot-button social and political issues in the future.

From an employer's perspective, the fact that your workers could be discussing pay equity issues while chatting about Super Bowl commercials means that you can no longer ignore the issue. This increased level of awareness necessitates that you ensure compliance before you find yourself on the wrong end of a government audit, administrative charge, private lawsuit, or jury verdict.

For more information about these developments, contact any attorney in our [Pay Equity Practice Group](#), or your regular Fisher Phillips attorney.

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