

Introduction to the 2026 Edition

The emphasis in this 2026 update is on the ways in which the Federal Trade Commission (FTC) is dealing with the complexities of protecting consumers and markets in a time of intense stress caused by technology often linked to generative Artificial Intelligence (AI); intense financial pressures being encountered by companies and consumers alike; and national security concerns that are motivating new controls on data flow to adversary countries. More attention has been directed toward the management of digital data that has emerged as a critical agency concern.

A total of 2 introductory overviews, 9 inserts, 11 new caselaw analyses and 2 new Appendices have been added to this book for 2026. As noted, these cases overlap with the foundation materials included throughout the book while also illustrating the complexities and difficulties often faced in protecting consumers and markets. The intent is to extend the reach of this book through descriptions of the activities that are being conducted by the FTC.

FTC Themes

As discussed at § 1:1 and § 2:20, two general themes that seem to be extending throughout FTC activities during 2024-2025 are: (1) agency efforts to counter unauthorized and unwanted manipulation and control over data (information being processed by computers, often for purposes of deception or compromise of privacy) and (2) agency efforts to counter manipulation and control over markets (particularly with respect to product control in order to gain pricing power, often involving efforts to compromise competition). Within these general themes, there has been growing attention paid to privacy protections and data security; rapid development of generative Artificial Intelligence (AI); telemarketing and other forms of technology-based communications; business interventions and activities that impair competition; and the utility of FTC communications as required for general agency effectiveness.

These trend descriptions are based on an analysis of testimony by the Commission Chairs to Congress in 2024 and 2025 (as discussed at § 2:20). As described at § 3:15, these themes likely developed from combinations of statutory authority and case selection. The cases included in this 2026 edition have been selected to illustrate these themes. Brief summaries of these cases are included in this introduction. More extended case descriptions and summaries of foundation materials are combined at § 1:1.

Personal data and AI

Section 13:10 (2025) describes FTC action under Section 6(b) of the FTC Act to require seven online digital companies to respond to Orders regarding the impact of generative Artificial Intelligence (AI) technology—where used for chatbots—on children and teens. The larger objective is to seek an explanation for the behaviors attributed to these chatbots, particularly with respect to understanding why certain outputs are produced. Orders to online companies for information have been complemented and supported by an update to the Children’s Online Privacy Protection Act (COPPA) Rule (see § 20:32).

Section § 13:11 (2025) describes executive and legislative support for actions being taken by the FTC and Department of Justice (DOJ) to counter concerns over the potential transfer of the personal data of U.S. citizens to adversary countries. New programs have been designed and implemented to establish and enforce rules for data security. There is a major concern that the transfer of personal data to adversary countries might raise national security concerns and increase threats associated with generative AI.

Private equity and noncompete agreements

Section 15:8 (2025) examines the ways in which roll-up activity by private equity firms can result in a reduction in competitive markets, specifically with respect to competition in healthcare services. This case involves an understanding of healthcare markets and investment strategies developed by non-healthcare companies.

Section 15:9 (2025) describes two major strategies by the FTC to deal with the burdens that noncompete agreements place on competitive markets. An effort to apply a general rule was not successful but individual examples of unreasonable agreements were shown to be subject to successful FTC intervention. This useful case illustrates how FTC actions may have strategic boundaries to be considered and that transitions from general to specific actions may contribute to the definition of such boundaries.

Merger evaluations

Section 17:16 (2025) covers revisions to the Hart-Scott-Rodino (HSR) forms and instructions to increase the information required regarding planned mergers (by larger companies) and the role of the Premerger Notification Office (PNO). As documented, the changes regarding merger notifications have placed new requirements on information disclosures and enabled stronger reviews by the FTC and Department of Justice (DOJ).

Telemarketing and subscription renewals

Section 20:30 (2025) involves deceptive marketing of health insurance policies in violation of Section 5 of the FTC Act and the

FTC Telemarketing Sales Rule (TSR), extending the Chapter 20 foundation discussions on telemarketing (found at §§ 20:14-20:16).

Section 20:31 (2025) involves violations of the limited FTC-allowed uses of negative-option subscription renewals (hidden “cancel buttons”) and violation of the Restore Online Shoppers’ Confidence Act (ROSCA). Chapter 20 considers ROSCA in the list of supplementary statutes and thus provides a baseline resource for the case study.

Privacy and AI

Section 20:32 (2025) addresses privacy protections for children and teens and involves violation of the Children’s Online Privacy Protection Act (COPPA) and violation of the FTC COPPA Rule by Disney, with mislabeling of videos able to expose children and teens to unsuitable materials. This case updates the Chapter 20 discussion of COPPA (§ 20:17), providing new insights due to the technologies in use for information management.

Section 20:33 (2025) describes a joint statement by the FTC, DOJ, European Commission and United Kingdom (UK) expressing concern over the potential impact of generative AI on competition-driven markets, emphasizing the scope of 2025 efforts.

Section 20:34 (2025) covers the updating of the COPPA Rule by the FTC (§ 20:17) with provisions intended to enhance capabilities to deal with generative AI technologies for privacy protections and updating general FTC concerns (see §§ 20:32-20:33).

Combining of foundation insights and case experiences

The foundation materials provided throughout this volume explain the broader functioning of the FTC in general terms. Further, this perspective increases understanding of case characteristics. In turn, the cases that have been added involve specific situations and contribute to the more general foundation materials. As a result of this dual interaction, foundation insights and case experiences provide more understanding together than either perspective is able to alone.

The fundamentals of FTC activities result in the essential framework that creates agency coherence and effectiveness. The specifics of cases are important because the details matter and influence the setting in which themes evolve and agency decisions are made.

The themes that emerge have their roots in both the overview provided by the foundation materials and the details of specific cases that involve interactions across multiple issues. It is the interactions between the foundation materials and real-world cases that produce the results and themes that are unique.

The new appendices included here provide resource materials that can aid in interpreting agency actions. Appendix J briefly

describes the 2025 legal conflict between President Trump and FTC Commissioners that has influenced agency operations during 2025. Appendix K provides general insight into some of the characteristics of generative Artificial Intelligence (AI) that may affect FTC efforts to monitor and supervise this technology.

Continuing COVID and shutdown

As discussed at § 1:1, the operations of the FTC are still being affected by the aftermath of the COVID-19 pandemic (generally 2020-2022). Efforts are continuing to enforce penalties for violations of statutes and rules. In addition, the federal government shutdown that began October 1, 2025, called for a sharp reduction in staffing and activities during the shutdown. These two disruptions have affected FTC operations during 2020-2025 by both increasing duties and limiting potential responses. More overview detail regarding the materials in this 2025-2026 edition may also be found at new § 1:1.

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