

## **Highlights for 2025-2026 Consumer Protection and the Law of Unfair and Deceptive Trade Practices**

All recent major cases and legislative developments involving Federal Trade Commission (FTC) Unfair and Deceptive Acts and Practices (UDAP) cases and regulations are noted. Highlights are summarized below

### **Chapter 8:**

This chapter covers the history of the FTC and the scope of its jurisdiction. Recent developments include:

- President Trump's firing of two Democratic FTC Commissioners without cause, appears contrary to the statutory language and prior U.S. Supreme Court precedent. In a subsequent court challenge, the U.S. District Court ruled in favor of the dismissed Commissioner, but the case is likely to go to the U.S. Supreme Court.
- The current status of the Consumer Financial Protection Bureau (CFPB), which has some overlapping jurisdiction with the FTC, is noted, including court challenges to the second Trump administration's attempts to hollow out the CFPB through staff layoffs and budget cuts.
- Supreme Court case decided in 2024 upheld against constitutional challenge CFPB funding mechanism drawing from Federal Reserve bank fees.

### **Chapter 9:**

This chapter discusses the historical development of the unfairness doctrine at the FTC as it pertains to consumer protection. Recent developments regarding unfair trade practices covered in this update include:

- Walmart agreed in 2025 to pay \$10 million to settle a case based on unfairness theory, in which the FTC alleged the retailer had failed to provide adequate safeguards for customers using Walmart money transfer services while victimized by fraudsters.

### **Chapter 10:**

This chapter focuses on the history and general criteria of the FTC deceptive practices jurisdiction. No new developments noted.

**Chapter 11:**

This chapter tracks specific applications of the FTC law of deceptive practices. Recent developments covered in this update include:

- Makers of Prevacid found liable by a jury for failure to substantiate claims that the product was clinically proven to reduce memory loss.
- FTC case enforced the Opioid Addiction Recovery Fraud Prevention Act against an addiction treatment company that used deceptive marketing.
- FTC obtained several settlements against companies making false claims regarding employment and job placement services, as well as a \$10 million settlement with CarShield regarding deceptive claims for their vehicle servicing contracts.
- FTC settled several cases in 2023 and 2024 against companies for misrepresenting consumer reviews. It also published revisions of its Endorsement Guides and issued a Trade Regulation Rule on Consumer Reviews and Testimonials in August of 2024. The new regulation covers the use of fake reviews, suppression of negative reviews, and misrepresenting social media influence by claiming fake followers, etc. The FTC also brought several cases enforcing the new rule on consumer reviews.
- The FTC was active in the policing of advertising for tax filing services, including cases against Turbo Tax and H&R Block, both of whom were charged with making deceptive claims about “free” tax preparation, which was not actually available to all customers.
- In 2024, the FTC lost a negative option case in federal court against a magazine subscription seller because the court found that the terms and conditions of the subscription and cancellation were adequately disclosed by the telemarketers.
- The FTC’s updated and expanded version of the Negative Option (“Click to Cancel”) Rule was vacated by a federal Court of Appeals on procedural grounds in 2025.
- The FTC settled or pursued several cases seeking to enforce the provisions of the Restore Online Shoppers’

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Confidence Act (ROSCA), involving online subscription services that were difficult to cancel or imposed inadequately disclosed terms without consent. The FTC also has pending cases for ROSCA violations against Amazon and Uber.

- The FTC's potentially ground-breaking CARS Rule regarding sales and financing practices of automobile dealers, was vacated by the Fifth Circuit Court of Appeals in 2025. Despite this setback in court, the FTC continued to bring and settle individual cases against car dealers engaging in unfair or deceptive "add-ons" and other practices.
- In 2025, the FTC promulgated a regulation on unfair or deceptive fees known as the "junk fee" rule, covering hidden fees in the live events ticketing business and the short-term lodging industry, including hotels, vacation homes and platform-based rentals.
- The FTC continued vigorous enforcement of its "Made In U.S.A." regulation with several cases settled in the mid-2020s.

### **Chapter 12:**

This chapter discusses the various remedies for unfair and deceptive trade practices employed by the FTC. Highlights covered in this update include:

- Rulemaking revival under former FTC Chair Lina Khan is noted, as are personnel changes after the 2024 election that may put the brakes on this trend.
- The effect of the 2021 Supreme Court ruling in *AMG* on old and new cases ordering consumer redress under § 13(b) are discussed. FTC succeeded obtaining consumer redress in later cases by combining Section 13(b) and Section 19 redress actions. The FTC also was able to impose individual liability for consumer redress in cases involving violations of statutes and regulations.
- New cases for consumer redress that were settled or litigated under Section 19 of the FTC Act are summarized.

### **Chapter 13:**

This chapter focuses on evolving types of consumer transactions, from telemarketing to online sales and solicitations. Consumer privacy, especially with regard to internet participation, is also covered. Developments in these areas include the following:

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- 2024 amendments to the Telemarketing Sales Rule, extending coverage and recordkeeping requirements, is noted.
- In 2024-25, the FTC settled several cases involving credit card laundering and payment processing by third parties for telemarketing fraudsters. The FTC also litigated or settled major cases against lead generators who sold consumers' personal information to marketers who then made calls to persons on the Do Not Call registry.
- During the period covered in this update, the FTC continued its pursuit of online businesses using "dark patterns" in their online billing processes. The FTC won settlements or survived motions to dismiss in cases involving a genetics DNA ancestry service, a third-party billing service and online retail giant Amazon, the latter with regard to their Amazon Prime subscription service.
- A new Section 13:16 on deceptive earnings claims in the internet economy has been added in this update. This covers the proposed expansion of the Business Opportunity Rule and the proposed creation of a rule regarding multi-level marketing. These proposals are still pending. The FTC also continued to pursue scammers making deceptive claims to promote "gig work," including food delivery service Grubhub, as well as several business coaching programs charged with making deceptive earnings claims.
- The FTC continued CANSPAM enforcement with cases settled against Experian Consumer Services and security camera firm Verkada, Inc.
- The FTC updated its Children's Online Privacy Protection Act (COPPA) regulations in 2025 with bipartisan approval. The amendments aimed to respond to changes in technology and culture, such as children's expanded use of smart phones, apps and social media, as well as the use of children's personal information for targeted advertising by third parties. The FTC also pursued several COPPA enforcement cases during this period, resulting in consumer redress and civil penalties.
- The FTC finalized its Rule on Impersonation of Government and Businesses in 2024, which prohibits such activities as false account security alerts, bogus law enforcement, and made-up package delivery or toll road bills. It also filed multiple enforcement ac-

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tions in the first year of the Rule, including a suit against a telemarketer impersonating Department of Education personnel to trick consumers into paying junk fees and other charges.

- In 2024, the FTC survived a motion to dismiss a federal case against data broker Kochava for selling consumers' location information, including sensitive visits involving health, religion or politics, collected from consumer's mobile phones without consent. The FTC also settled cases against several other data brokers on similar grounds during the same period. In 2025, the FTC settled a case against General Motors and OnStar, a car tracking system that collected and sold geolocation data and driving behavior information about consumers to third parties, without the consent of consumers.
- In 2024, the FTC settled a case against national retailer Rite Aid for using unreliable facial recognition technology for customer surveillance, which resulted in misidentifying some customers as shoplifters.
- The FTC continues to be vigilant against security breaches involving consumers' personal information, including bringing a suit against Marriott International and Starwood Hotels. The case was settled in 2024. Other settled cases involving inadequate data security included web-hosting company GoDaddy.com and security camera seller Verkada.
- The FTC settled two suits in 2024 against companies charged with violating their own privacy policy promises to protect sensitive health data they collected.