

2024 FTC and FCC Enforcement Activity: Advertising Marketing Practices

Year-in-Review

In this year-in-review, we present a sampling of enforcement activities undertaken by the Federal Trade Commission (FTC) and Federal Communications Commission (FCC) in 2024. This summary aims to highlight the key areas of regulatory focus and provide valuable lessons from these cases. By reviewing these cases and referring to the [ANA Ethics Code of Marketing Best Practices](#) marketers can gain additional guidance to lead the way in ethical marketing practices. The following enforcement areas focused on:

- **AI**
- **Billing Practices**
- **Cannabis Marketing**
- **Data Practices**
- **Data Security**
- **Deceptive Practices**
- **Employment Services**
- **Endorsements and Testimonials**
- **Extended Warranties**
- **Financial Services**
- **Franchise Rule**
- **Fundraising Practices**
- **Health Advertising**
- **Made in USA**
- **Negative Option/Advance Consent Marketing**
- **Price Discrimination**
- **Robocalls and Telemarketing Sales Rule**
- **Scams**
- **Sweepstakes**
- **Tobacco Advertising**

AI

Operation AI Comply: Continuing The Crackdown on Overpromises and AI-Related Lies

On September 25, the Federal Trade Commission (FTC) [announced](#) five cases alleging AI-related deception. These cases involve allegations over deceptive marketing practices including business opportunity scams that claim to use AI for “get rich quick scams” or using a generative AI tool to let people create fake consumer reviews, among other issues.

Data and Models: A Quote Book from the Tech Summit on AI

On April 17, the Federal Trade Commission (FTC) [released](#) the “Quote Book” from its recent Tech Summit on AI. The AI Tech Summit included three panels – each panel highlighted different layers of the AI tech stack: hardware and infrastructure, data and models, and front-end user applications. The FTC outlines the intended purpose of the quote book, a summary of the panels, and relevant topics and actions.

FCC Makes AI-Generated Voices in Robocalls Illegal

On February 8, the FCC (Federal Communications Commission) [announced](#) the unanimous adoption of a Declaratory Ruling that recognizes calls made with AI-generated

voices are “artificial” under the Telephone Consumer Protection Act (TCPA). The ruling, which takes effect immediately, makes voice cloning technology used in common robocall scams targeting consumers illegal. This would give State Attorneys General across the country new tools to go after bad actors behind these nefarious robocalls.

BILLING PRACTICES

FTC Sends Refund Payments to Consumers Impacted by Epic Games’ Unlawful Billing Practices

On December 9, the (FTC) [announced](#) that it is sending \$72 million in refunds to over 600,000 consumers who the FTC alleges were tricked into making unwanted purchases.

CANNABIS MARKETING

Warning to Companies Selling Cannabis Edibles Packaged Like Snacks Popular with Kids: Put Safety over Sales

On July 16, the Federal Trade Commission (FTC) [issued a warning](#) to several companies that are allegedly selling edibles “masquerading” as popular snacks to stop marketing edible Delta-8 THC products that imitate conventional foods using advertising or packaging that is likely to be appealing to young children. The concern is that children could mistakenly think that they are eating one of their normal favorite snacks and are not aware that it contains Delta-8 THC-laced look-alike because the packaging of the cannabis products looks similar, and they might not focus or be able to understand the labeling.

DATA PRACTICES

FTC Takes Action Against Mobilewalla for Collecting and Selling Sensitive Location Data

On December 3, the Federal Trade Commission (FTC) [announced](#) that will prohibit data broker Mobilewalla, Inc. from selling sensitive location data, including data revealing individuals’ private homes, to settle allegations that the data broker sold such information without taking reasonable steps to verify consumers’ consent. The FTC alleges that Mobilewalla violated the FTC Act by collecting over 500 million unique consumer advertising identifiers paired with consumers’ precise location data which was not anonymized and could be used to identify individual consumers’ mobile devices and the sensitive locations they visited. The company allegedly sold access to this raw data to third parties, including advertisers, data brokers and analytic firms.

Cars and Consumer Data: Unlawful Collection and Use

On May 14, the Federal Trade Commission (FTC) [issued](#) a blog reminding car manufacturers and all businesses that the FTC will take action against the illegal collection, use, and disclosure of personal data. Recent FTC enforcement activity

includes: 1) geolocation data is sensitive and subject to enhanced protections under the FTC Act, 2) surreptitious disclosure of sensitive information can be an unfair practice, and 3) using sensitive data for automated decisions can be unlawful.

BetterHelp Customers Receive Notices About Refunds Related to a 2023 Privacy Settlement with FTC

On May 6, the Federal Trade Commission (FTC) [announced](#) that about 800,000 people will begin receiving notices that they are eligible for refunds stemming from the FTC's 2023 settlement with BetterHelp related to allegations that the online therapy firm used and shared consumers' health data, including sensitive information about their mental health, with third parties for advertising. BetterHelp agreed to pay \$7.8 million to settle the FTC's charges.

FTC Sends Refunds to Former AT&T Wireless Customers Who Were Subject to Alleged Data Throttling

On April 11, the Federal Trade Commission (FTC) [announced](#) that it is refunding former AT&T customers nearly \$6.3 million for allegedly misleading them about its unlimited data plans. These refunds are part of the FTC's 2019 [announced settlement](#), regarding the wireless provider's failure to adequately disclose to its unlimited data plan to customers. The FTC alleges that AT&T would reduce—or “throttle”—their data speeds to the point that many common mobile phone applications, such as web browsing and video streaming, became difficult or nearly impossible to use. In 2020, as a result of the settlement, the company gave a bill credit to current AT&T customers and sent refund checks to former customers, which resulted in \$52 million returned to consumers. The latest refunds are going to consumers who had not yet received a refund and [filed a valid claim](#) with the FTC.

FTC Releases 2023 Privacy and Data Security Update

On March 28, the FTC [released the 2023 Privacy and Data Security Update](#) which details agency actions and enforcement activity related to AI, health privacy, children's privacy, geolocation data, data security, credit reporting and financial privacy and spam calls and emails. Additionally, you can review the [FTC highlights](#) on what your business needs to know. For more information about ethical marketing fundamentals as it relates to data privacy and consumer choice, please [register](#) for the ANA Center for Ethical Marketing's April 10th bite-sized webinar with featured guest speaker – Jordan Abbott, Chief Privacy Officer at Acxiom.

FTC Order Will Ban Avast from Selling Browsing Data for Advertising Purposes

On February 15, the Federal Trade Commission (FTC) [announced](#) a proposed settlement that would ban Avast from selling browsing data and require it to pay \$16.5 million over allegedly selling browsing data to third parties after claiming its products would protect consumers from online tracking. The FTC alleges that the company collected consumers'

browsing data through its browser extensions and antivirus software, stored it indefinitely, and sold it without adequate notice and without consumer consent.

FTC Order Will Ban InMarket from Selling Precise Consumer Location Data

On January 18, the FTC [announced](#) a proposed order with InMarket Media to prohibit it from selling, licensing, transferring, or sharing any product or service that categorizes or targets consumers based on precise location data. The FTC alleges that InMarket “did not fully inform consumers and obtain their consent before collecting and using their location data for advertising and marketing”.

DATA SECURITY

Marriott Data Breach Settlement: What It Means for Consumers

On October 9, the FTC [issued](#) a consumer alert regarding the data breach encountered by Marriott. Marriott settled charges related to the data breach by giving consumers more control over their data, providing more clarity regarding its information collection, use, storage, security practices, ability for customers to review and/or delete data, restore stolen points, etc. If you believe that you are a victim, visit [IdentityTheft.gov](https://www.identitytheft.gov). **For additional best practices and tips, join us October 23 for our next [Ethics Code Training Webinar](#), where we'll be discussing Data Privacy, Security and Stewardship as well as DEI.**

FTC Finalizes Order with Blackbaud Related to Allegations the Firm's Security Failures Led to Data Breach

On May 20, the Federal Trade Commission (FTC) [announced](#) that it finalized an order against Blackbaud Inc. over allegations that its “lax” security practices allowed a hacker to breach the company’s network and access personal data such as Social Security and bank account numbers of millions of consumers. The FTC claims that Blackbaud, a company providing data services, and financial, fundraising, and administrative software services to companies and nonprofits did not implement appropriate security protection safeguards. The order also requires Blackbaud to implement additional security protection measures including implementing a data retention schedule, deleting data it no longer needs, developing a comprehensive information security program, and notifying the FTC, local, state or federal agency if it experiences another data breach.

Tech Support Firms Will Pay \$26 Million to Settle FTC Charges That They Deceived Consumers into Buying Repair Services

On March 14, the Federal Trade Commission (FTC) [announced](#) that two Cyprus-based tech companies – Restoro and Reimage – will pay \$26 million to settle FTC charges that they allegedly tricked consumers into signing up for computer repair services through deceptive marketing. According to the FTC, “these companies are charged with using scare tactics

and lies about threats to consumers' personal computers to bilk consumers, particularly older consumers, out of tens of millions of dollars.”

FTC Sends Refunds to Consumers Harmed by a Tech Support Scam Facilitated by Payment Processor Nexway

On February 8, the Federal Trade Commission (FTC) [announced](#) that it is sending more than \$610,000 in refunds to consumers who lost money to a tech support scam facilitated by the payment processing company Nexway. [According to the FTC's April 2023 complaint](#), Nexway and two of its officers were at the center of several offshore tech support scams, processing tens of millions of dollars in charges and giving the scammers access to the U.S. credit card network. The defendants agreed to a settlement with the FTC that prohibits them from any further payment laundering and requires them to closely monitor other high-risk clients for illegal activity. The defendants also had to turn over assets, which the FTC is using to refund consumers.

Keeping Your Privacy Enhancing Technology (PET) Promises

On February 1, the FTC [posted a blog](#) regarding companies' uses of privacy enhancing technologies (PETs) and other privacy practices and technologies that seek to keep a consumer's communication private or “siloe. The FTC cautions companies that use such technologies to ensure that any privacy claims or representations made are accurate. The FTC has brought cases against companies that claimed specific technology-based security or privacy guarantees that they allegedly failed to provide.

DECEPTIVE PRACTICES

FTC, Illinois Attorney General Take Action Against Grubhub for Harming Diners, Workers, and Small Businesses

Grubhub [will pay \\$25 million to settle charges](#) from the Federal Trade Commission (FTC) and the Illinois Attorney General that the food delivery firm allegedly engaged in unfair and deceptive practices including deceiving diners about delivery costs and blocking their access to their accounts and funds, deceiving workers about how much money they would make delivering food, and unfairly and deceptively listing restaurants on its platform without their permission. Under the settlement, Grubhub agreed to: “tell the truth in its advertisements, disclose all mandatory delivery fees, refrain from blocking accounts without notice, stop misleading people about restaurant affiliations, stop misrepresenting delivery driver earnings, and comply with the Restore Online Shoppers' Confidence Act (ROSCA). Grubhub will also pay \$25 million of a \$140 million judgment.”

EMPLOYMENT SERVICES

FTC Says Care.com Mised Workers

On August 26, the Federal Trade Commission (FTC) [announced](#) a settlement with Care.com regarding its allegedly deceptive marketing practices. The FTC claims that “Care.com misled workers about how many jobs were available on the platform and how much they could earn — and made it hard to cancel subscriptions.” For additional tips and best practices, review the relevant Sections of the [ANA Ethics Code of Marketing Best Practices](#) including *Section 1. Advertising and Marketing Offers*. Please register and join us for our September 26 [Ethics Code FUNdamentals webinar](#) – for an overview of the first two sections of our Ethics Code 1) Advertising and Marketing Offers and Supporting Claims and 1) Advertising to Specific Audiences.

FTC Sends More Than \$2.4 Million to Consumers Harmed by Deceptive Business Coaching Scheme Lurn

On June 6, the Federal Trade Commission (FTC) [announced](#) that it is sending \$2.4 million in refunds to consumers who were paid for Lurn’s business consulting programs and were deceived about the amount of money they could make from these services – appearing to be a “get quick rich scheme” making false promises and marketing claims. It’s another good reminder to ensure your marketing offers and claims are clear, accurate, honest and complete. We provide additional guidance in our soon to be released Ethics Code. ANA members can review the: [ANA Ethical Code of Best Practices: Draft Edition](#).

ENDORSEMENTS AND TESTIMONIALS

FTC Order Against AI-Enabled Review Platform Sitejabber Will Ensure Consumers Get Truthful and Accurate Reviews

On November 6, the Federal Trade Commission (FTC) [announced](#) that it charged Sitejabber for using its AI-enabled consumer review platform for allegedly misrepresenting ratings and reviews submitted by consumers who had not yet received products or services. The FTC charges that Sitejabber artificially inflated average ratings, and review counts by taking the reviews of consumers at the point of purchase and before the consumers received the products or services. The FTC’s proposed order prohibits Sitejabber from engaging in these practices in the future.

FTC Sends Nearly \$1.9 Million in Refunds to Customers Harmed by Hey Dude’s Violations of the Mail Order Rule

On August 6, the Federal Trade Commission (FTC) [announced](#) that it is refunding nearly \$1.9 million to consumers harmed by online shoe seller Hey Dude for its alleged deceptive marketing practices involving suppressing negative online reviews, failure to notify customers about shipping delays and did not provide cancelations or refunds for delayed orders, and used gift cards instead of monetary compensation for refunds to customers who never received their orders. For additional tips and best practices, review the relevant

Sections of the [ANA Ethics Code of Marketing Best Practices: Article 5. Testimonials, Endorsements, and Customer Reviews](#) and [Article 2. Product Availability and Shipment](#).

Did a Celebrity Really Endorse THAT? Maybe Not

On April 24, the Federal Trade Commission (FTC) [released](#) a new consumer alert on how to spot, avoid and report fake celebrity endorsements. Tips involve researching, resisting the pressure to act quickly, asking your health care provider/professional for medical advice, and knowing the investment risk. You can report potential scams to the [Federal Trade Commission](#) and/or to the [ANA Center for Ethical Marketing](#). For additional tips, guidance and resources, check-out our recent alert on [Using Testimonials, Endorsements, and Consumer Reviews in Marketing](#).

FTC Sends More Than \$527,000 in Refunds to Bountiful Consumers Deceived By “Review Hijacking” on Amazon.com

On March 14, the FTC [announced](#) its first “review hijacking” enforcement action. Review hijacking is a deceptive practice in which a marketer steals the reviews of another product to boost sales. The FTC alleges that Bountiful abused features on Amazon.com to deceive consumers into thinking that its newly introduced supplements had more product ratings and reviews, higher average ratings, and “#1 Best Seller” and “Amazon’s Choice” badges. For more information about using testimonials and endorsements in your marketing efforts, review our recent Ethics Alert: [Using Testimonials, Endorsements, and Consumer Reviews in Marketing](#).

EXTENDED WARRANTIES

FTC Sends More Than \$449,000 to Consumers Harmed by ‘Extended Vehicle Warranty’ Scam

On October 10, the Federal Trade Commission (FTC) [announced](#) that is refunding \$449,000 to over 18,000 consumers who were harmed by the alleged false claims and deceptive telemarketing tactics made by American Vehicle Protection Corporation. It’s a good reminder for companies to be clear and accurate in their marketing efforts. For additional guidance, please review the [ANA Ethics Code of Marketing Best Practices](#) and the ethics alert we did on [Fake Warranties and Marketing Offers Cloaked as Unpaid Invoices](#).

Car Dealers Included Add-Ons Without Consumers’ Consent and Discriminated Against Black and Latino Buyers, Alleges FTC

On August 20, the Federal Trade Commission (FTC) [posted a blog](#) regarding its recent complaint against a large automotive dealer group, Asbury Automotive Group, for allegedly charging consumers for costly add-on items that they did not agree to or were falsely told were required as part of their purchase. The FTC also alleges that the auto dealership

discriminates against Black and Latino consumers, targeting them with unwanted and higher-priced add-ons. For additional guidance, please refer to the ANA Ethics Code of Marketing Best Practices [Member Principles](#) and [Advertising and Marketing Offers: Supporting Claims](#) section.

FTC Says Carshield Shielded Consumers from the Truth About Limitations of Its Vehicle Service Contracts

On July 31, the Federal Trade Commission (FTC) [announced](#) it proposed a \$10 million settlement to NRRM, LLC, dba CarShield, and American Auto Shield to settle FTC charges that its advertisements and telemarketing practices are deceptive and misleading with many purchasers finding that many repairs were not covered under the vehicle service contracts. The FTC also alleges CarShield's celebrity and consumer endorsers made false statements in its ads. For additional guidance, we recommend you review the new Ethics Code in particular the section on [Advertising and Marketing Offers: Supporting Claims](#).

FINANCIAL SERVICES

FTC Sends Payments to Consumers Harmed by Vivint's Misuse of Consumer Credit Reports

On December 5, the FTC [announced](#) it is sending nearly \$500,000 to 470 consumers who were harmed by home security company Vivint Smart Homes, Inc., which allegedly misused credit reports to help unqualified customers get financing for the company's products and services. [The FTC alleged](#) in a complaint announced in April 2021 that Vivint's sales representatives obtained financing for unqualified customers by using the credit history of an unrelated third party with the same or similar name or adding cosigners without their permission. If customers who qualified using these deceptive tactics later defaulted on their loans, Vivint referred them to debt collectors, potentially harming their credit. After hearing from these debt collectors, some affected consumers reported to the FTC that they were victims of identity theft.

FTC Sends Refunds to Consumers Harmed by Credit Bureau Center's Fake Rental Property Ads and Deceptive Promises of "Free" Credit Reports

On November 21, the FTC [announced](#) that is sending \$1.9 million to consumers who were allegedly harmed by fake rental ads and deceptive promises of "free" credit reports from the Credit Bureau Center LLC, formerly known as MyScore, LLC. The FTC alleges that the company impersonated property owners and offered tours for properties they were not authorized to offer for rent, if consumers first obtained credit reports and scores from their websites. These sites claimed to provide "free" credit reports and scores, but then enrolled consumers in a credit monitoring service with recurring monthly charges. Many consumers didn't realize they were enrolled until they noticed unexpected charges on their bank or credit card statements.

FTC Sends More Than \$2.5 Million to Consumers Deceived by Credit Karma’s Allegedly False “Pre-Approved” Credit Offers

On October 31, the Federal Trade Commission (FTC) [announced](#) that it is sending more than \$2.5 million to over 50,000 consumers who were allegedly misled by deceptive claims from credit services company Credit Karma. The FTC [took action against Credit Karma in 2022](#), alleging that it had misled consumers into believing that they were “pre-approved” and had “90% odds” of approval to entice them to apply for credit card offers that, in many instances, they ultimately did not qualify for. Credit Karma agreed to an FTC order that required the company to stop making these types of deceptive claims and to pay money to compensate consumers who were harmed.

CFPB Takes Action Against Chime Financial for Illegally Delaying Consumer Refunds

On May 7, the Consumer Financial Protection Board (CFPB) [announced](#) that it is taking action against Chime Financial for failing to give consumers timely refunds when their accounts were closed – they reportedly withheld account-closure refunds past the promised 14-day timeframe. The CFPB’s order requires Chime to provide at least \$1.3 million in redress to consumers it harmed, and pay a \$3.25 million penalty into the [CFPB’s victims relief fund](#).

FTC Takes Action Against BlueSnap for Credit Card Laundering, Processing Payments for Known Scammers

On May 1, the FTC announced that it is taking action against payment processing company, BlueSnap, Inc., for allegedly knowingly processing payments for deceptive and fraudulent companies. Under the agreed settlement, the defendants are required to return \$10 million to consumers and stop processing payments for certain high-risk clients.

FTC Announces Claims Process for Consumers Harmed by Lanier Law Mortgage Relief Scheme

On January 17, the FTC [announced](#) it’s launching a claims process for consumers harmed by a deceptive mortgage relief operation known as Lanier Law that collected upfront fees of thousands of dollars and promised consumers lower monthly payments but failed to deliver.

FRANCHISE RULE

FTC Takes Action Against Qargo Coffee for Franchise Rule Violations

On October 16, the FTC [announced](#) that it took action against coffee shop franchise Qargo Coffee for allegedly failing to disclose critical information, engaging in unfair practices, and making misrepresentations to potential franchisees under the FTC’s Franchise Rule. The FTC order requires Qargo to comply with the Franchise Rule, permit franchisees to rescind their contracts without penalties and other provisions.

FUNDRAISING PRACTICES

FTC, 10 States Act Against Operator of Sham Cancer Charity for Deceiving Donors

On March 11, the FTC along with 10 states [announced](#) that they are suing Cancer Recovery Foundation International, also known as Women’s Cancer Fund, for allegedly deceiving donors who sought to offer financial support to women battling cancer and their families. The complaint charges Women’s Cancer Fund and Gregory Anderson with raising more than \$18 million from donors via telemarketing and direct mail, with only 1% going to financial support for cancer patients. The FTC [offers advice](#) on how to donate safely and avoid scams. Additionally, the [ANA Nonprofit Federation](#) offers knowledge sharing opportunities, tools, and resources to assist members in learning from each other and employing best practices.

HEALTH ADVERTISING

FTC Order Will Ban California-based Company from COVID-19 Advertising Claims

On February 15, the Federal Trade Commission (FTC) [announced](#) a proposed settlement that would ban California-based Precision Patient Outcomes, Inc. (PPO) and the company’s CEO Margrett Priest Lewis from claiming that dietary supplements can treat, prevent, or mitigate COVID-19. [According to the FTC’s complaint](#), the defendants began advertising COVID Resist on the company’s website and social media pages during the pandemic with deceptive claims that the product could treat, prevent, or mitigate COVID-19.

It is a good reminder for companies that when making health-related claims – it should be based on scientific evidence. Please join our [February 29th Ethics Policy Committee](#) where we will be discussing marketing challenges with healthcare offers and data.

MADE IN USA

FTC Sends Refunds to Consumers Who Bought Pyrex Glass Manufacturer’s Products Falsely Advertised as Made in USA

On October 1, the Federal Trade Commission (FTC) [announced](#) that is refunding \$88,000 to over 10,000 consumers who bought Chinese-made measuring cups marketed as “Made in USA” by Instant Brands, the maker of Pyrex-brand kitchen and home products. It’s a good reminder for companies to be clear and accurate in their marketing efforts. For additional guidance, please review the [ANA Ethics Code of Marketing Best Practices](#).

Williams-Sonoma Will Pay Record \$3.17 Million Civil Penalty for Violating FTC Made in USA Order

On April 26, the Federal Trade Commission (FTC) [announced](#) that Williams-Sonoma will be required to pay a record civil penalty of \$3.175 million for violating a 2020 Federal Trade

Commission order requiring the retailer to tell the truth about whether the products it sells are Made in USA. The current complaint notes that the FTC became aware that the company was marketing mattress pads under its PBTeen brand as “Crafted in America from domestic and imported materials” when it was actually made in China. The FTC then investigated six other products the company advertised as Made in USA and found those claims were also deceptive in violation of the 2020 order. It’s a good reminder for companies that advertise or label as “Made in the U.S.A.” to review with the [FTC’s Enforcement Policy Statement on U.S. Origin Claims](#) and [Made in the USA Labeling Rule](#) to ensure compliance.

NEGATIVE OPTION/ADVANCE CONSENT MARKETING

FTC Says Adobe Hid Key Terms of “Annual Paid Monthly” Subscription Plan and Set Up Roadblocks to Deter Customer Cancellations

On June 17, the Federal Trade Commission (FTC) [announced](#) that it referred a complaint against Adobe and two key high-level executives over allegations that they engaged in complicated cancellation procedures over its subscription products. The [complaint](#) charges that Adobe steers consumers toward its “annual paid monthly” subscription plan, pre-selecting it as a default and displaying the “monthly” cost in the enrollment process. But according to the complaint, Adobe doesn’t clearly disclose key conditions – for example, that cancelling the plan in the first year will result in an “Early Termination Fee” and being charged 50% of the remaining payments for that one-year term, which could total hundreds of dollars. FTC further alleges that information is displayed in fine print or requires people to hover over small icons to find disclosures. The FTC is citing Adobe and key officers for being in violation of the [Restore Online Shoppers’ Confidence Act](#) (ROSCA) and the FTC Act for failing to:

- clearly and conspicuously disclose material terms of the transaction
- get the consumer’s express informed consent before charging their credit card, debit card, or other account and
- provide “simple mechanisms” for a consumer to stop recurring charges on credit card, debit card, or other account, in violation of ROSCA and the FTC Act.

PRICE DISCRIMINATION

FTC Sues Southern Glazer’s for Illegal Price Discrimination

On December 12, the Federal Trade Commission (FTC) [announced](#) that it is suing the largest U.S. distributor of wine and spirits – Southern Glazer’s Wine and Spirits, LLC (Southern)—alleging the company violated the Robinson-Patman Act, harming small, independent businesses by depriving them of access to discounts and rebates which they provide to larger chains. The FTC alleges that this unfair discriminatory pricing is not based on any market justifications and this loss of competition ultimately harms consumers on

choice and price and impedes small businesses' ability to compete against the larger national and regional chains.

ROBOCALLS, TECH SUPPORT SCAMS AND TELEMARKETING SALES RULE

Look Who's Covered: The Amended TSR and Tech Support Scams

On December 19, the FTC [announced](#) final amendments to expand coverage of tech support scams under the [FTC's Telemarketing Sales Rule](#) (TSR). The new TSR amendments extend the rule's coverage to inbound telemarketing calls for "technical support services," defined as "any plan, program, software, or service that is marketed to repair, maintain, or improve the performance or security of any device on which code can be downloaded, installed, run, or otherwise used, such as a computer, smartphone, tablet, or smart home product, including any software or application run on such a device." In other words, the TSR applies when a consumer initiates phone contact in response to an advertisement, direct mail solicitation, computer pop-up or banner for tech support services — or when a consumer is on the receiving end of a cold call initiated by a telemarketer or seller.

FCC Issues \$6M Fine for Election Interference Deepfake Robocalls

On September 26, the Federal Communications Commission (FCC) [adopted](#) a \$6 million fine against political consultant Steve Kramer for illegal robocalls made using deepfake, AI-generated voice cloning technology and caller ID spoofing to spread election misinformation to potential New Hampshire voters prior to the state's January primary presidential election. Kramer will be required to pay the fine within 30 days or the matter will be promptly referred to the U.S. Department of Justice for collection. The Truth in Caller ID Act makes spoofed calls illegal when made with the intent to defraud, cause harm, or wrongfully obtain anything of value. In addition, the FCC recently [confirmed](#) that the Telephone Consumer Protection Act's restrictions on calls using an "artificial or prerecorded voice" apply to calls using AI-generated voices.

FCC to Consider Rules to Further Protect Consumers from Unwanted Calls & Illegal Texts

On September 4, the Federal Communications Commission (FCC) [announced](#) that it will vote at its September 26 open meeting on new rules to further protect consumers from illegal and unwanted robocalls and texts. The proposed new rules would expand the FCC's enforcement efforts to include new financial penalties for carriers who fail to protect consumers from illegal calls. To learn more about FCC robocall rules and consumer protections, visit <https://www.fcc.gov/robocalls>.

FCC Settles Case Against Provider That Transmitted Spoofed Ai-Generated Robocalls for Election Interference In New Hampshire

On August 21, the Federal Communications Commission (FCC) [announced](#) that it has settled a case against Lingo Telecom for allegedly transmitting spoofed robocalls that used generative AI voice cloning technology to spread disinformation in connection with a presidential primary election in New Hampshire. The company will pay a \$1 million civil penalty and implement a historic compliance plan that will require strict adherence to the FCC's [STIR/SHAKEN](#) caller ID authentication rules, including requirements that the company abide by “Know Your Customer” (KYC) and “Know Your Upstream Provider” (KYUP) principles—which allows carriers to vet traffic and ensure it is trustworthy—and requirements that the company more thoroughly verify the accuracy of the information provided by its customers and upstream providers.

FCC Proposes Robocall Fines for N.H. Robocalls and Allegedly Using AI to Impersonate President Biden.

On May 24, the Federal Communications Commission (FCC) [proposed](#) a \$6 million fine against Steve Kramer for illegal robocalls that apparently used a deepfake generative AI voice message that imitated President Biden and allegedly used caller ID spoofing to spread election misinformation to potential New Hampshire voters prior to the January primary.

Additionally, the FCC [proposed](#) a \$2 million fine against the carrier, Lingo Telecom, LLC, for allegedly failing to properly authenticate the Caller ID information associated with these allegedly illegal deepfake generative AI robocalls.

FCC Proposes First Robocall Fine for Caller ID Authentication Failures

On May 23, the Federal Communications Commission (FCC) [proposed](#) a first-of-its-kind enforcement action related to the spoofed, deepfake illegal robocalls that targeted potential New Hampshire voters prior to the January primary. Lingo Telecom transmitted these calls, incorrectly labeling them with the highest level of caller ID attestation and making it less likely that other providers could detect the calls as potentially spoofed. Lingo Telecom faces a \$2 million proposed fine for apparent violations of the Commission's caller ID authentication rules.

CFPB Issues Order Against Western Benefits Group, LLC for Violating the TSR by Charging Advance Fees for Student-Loan Services

On May 20, the Consumer Financial Protection Bureau (CFPB) [announced](#) that issued an order against Western-Benefits Group, LLC a telemarketer and seller of student-loan debt-relief services for violating the Telemarketing Sales Rule (TSR) and the Consumer Financial Protection Act (CFPA) for allegedly using deceptive marketing practices. These practices included misrepresenting that it was endorsed, sponsored, or affiliated with the U.S. Department of Education; and that fees paid by consumers would be applied towards paying off or consolidating their student loans. The CFPB's order requires Western Benefits

Group to permanently cease all operations, voids agreements with consumers and requires payment of a civil penalty of \$400,000.

FCC & ICO Strengthen Privacy and Robocall Enforcement Partnership

On February 29, 2024, the Federal Communications Commission (FCC) [announced](#) a Memorandum of Understanding with the UK to address issues involving privacy, data protection, and communications services-related fraud. In particular, they announced a formal partnership to cooperate on enforcement matters related to unlawful robocalls and robotexts as well as efforts to protect consumers' privacy and sensitive data. Additionally, to partner on "combatting unsolicited commercial electronic messaging and telemarketing, scam telephone calls and short message service, unlawful automated or pre-recorded voice message telephone calls and text messages and the unlawful use of inaccurate caller identification."

SCAMS

New FTC Report to Congress on Scams and Older Adults

On October 18, the Federal Trade Commission (FTC) [announced](#) its latest report on new scams and fraud trends impacting older adults. This year's report also highlights work from the Scams Against Older Adults Advisory Group, [Pass It On](#) and other outreach programs. For more information, check out the [report](#) or go to ftc.gov/olderadults. If you spot a fraud or scam, tell the FTC at: ReportFraud.ftc.gov.

Scams Against Older Adults Advisory Meeting

On April 2, the Scams Against Older Adults Advisory Group, composed of government partners, consumer advocates, and industry representatives [will convene](#) to focus on ways to better identify and stop scams from impacting older adults. The Scams Against Older Adults Advisory Group held its first meeting on September 29, 2022, where it announced the formation of several committees to launch its work. Now, in its second meeting, the Advisory Group will hear updates from the leadership of the four committees on the work they have completed and the work yet to come. The meeting will be open to the public.

FTC Issues Advice on Avoiding and Reporting Gift Card Scams

On February 27, the FTC [issued](#) a consumer alert on advice and tips for spotting and avoiding gift card scams. The FTC cautions consumers against providing gift cards to scammers who call, text, email or send a social media message posing as coming from the government, technical support, prize company or long-lost relative (using AI cloning technology) implying urgency and seeking money. If you believe you have been scammed, you can report the gift card to the gift card company, ask for a refund and report it to the FTC at <http://www.reportfraud.ftc.gov/>.

Never Move Your Money to "Protect It." That's A Scam

On March 5, the FTC [issued](#) a consumer alert cautioning consumers about a new scam involving imposters that are telling consumers that fraud or criminal activity has been spotted and they need to move their money to protect it. These scammers ask for consumers to share [verification codes](#) or other account information. You should never share such information. When in doubt, hang up and find the official telephone number for the provider – either the back of your bank card or search online for the official site and contact information. You can report such scams to the FTC at <http://www.reportfraud.ftc.gov/>.

FTC: Fraud Losses Reached Record High in 2023

Last year U.S. consumers lost more than \$10 billion due to fraud, with almost half being due to investment scams, according to newly released data from the FTC. The FTC takes in reports from consumers about problems they experience in the marketplace as well as from other federal, state, local, and international law enforcement agencies, and organizations. The reports are stored in the Consumer Sentinel Network (Sentinel). For more information, [view the 2023 Consumer Sentinel Network Data Book](#).

Government Impersonators Mail Fake Notices to Small Business Owners

On February 13, the FTC [issued](#) an alert on imposters who are running scams by mail including sending fake forms and letters from made-up agencies to small business owners and demanding immediate payment. The FTC cautions that the fake government letters have agency names that include words like *United States*, *business regulation*, and *trademark* to make them seem legitimate. The letters include deceptive copy – saying it is time to register or renew a business license or trademark, sending you to a website that asks for your license, Social Security, EIN, and credit card numbers and providing a false sense of urgency. The FTC issued tips if you believe an offer looks like a scam:

- Go to [USA.gov](https://www.usa.gov) to verify the company names and contact information. Don't use any websites or phone numbers listed in the letter.
- Know that the government will never ask you to [wire money](#) or pay with [gift cards](#), [cryptocurrency](#), or a [payment app](#).

SWEEPSTAKES

FTC Action Leads to Sweepstakes Ban for Three Individuals Who Ran Massive Scheme That Cost Consumers Millions

On June 24, the Federal Trade Commission (FTC) [announced](#) a settlement that permanently bans three operators from operating sweepstakes or making claims to consumers about prizes they have or may win due to allegations over their operating of previous sweepstakes scams that cost consumers millions. The FTC's complaint charged that the defendants mailed personalized letters falsely telling consumers that they had

won large cash prizes, typically more than \$2 million. To collect the “guaranteed” money, consumers had to mail the defendants a \$20-\$30 fee by cash, check or money order typically within 10 days, and the letters warned consumers they would forfeit their winnings if they didn’t pay on time. It is important to note that promotions should clearly state that no purchase is required to win sweepstakes prizes. According to the FTC, the operators had no connection to any sweepstakes and could not award or pay anyone the promised prizes. The ANA Center for Ethical Marketing has been seeing more consumer inquiries regarding sweepstakes. If engaging in sweepstakes, please be sure to review applicable regulations and rules: [Advertising FAQ's: A Guide for Small Business | Federal Trade Commission \(ftc.gov\)](#) and [Guidelines for Ethical Business Practice: Sweepstakes | ANA](#).

TOBACCO ADVERTISING

FTC Issues Third Report on E-Cigarette Advertising and Sales in the U.S.

On April 3, the Federal Trade Commission (FTC) [issued its third report on e-cigarette sales and advertising nationwide](#), which shows that the combined sales of cartridge-based and disposable e-cigarette products to U.S. consumers by nine leading manufacturers increased by approximately \$370 million between 2020 and 2021, while the total topped \$2.67 billion. E-cigarette companies also spent \$90.6 million more advertising and promoting their products in 2021 than in 2020. The report also discusses the steps companies have taken to deter or prevent underage consumers from visiting their websites, signing-up for mailing lists and loyalty programs.