

Wiley Consumer Protection Download (February 26, 2025)

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Welcome to Wiley's update on recent developments and what's next in consumer protection at the Consumer Financial Protection Bureau (CFPB) and Federal Trade Commission (FTC). In this newsletter, we analyze recent regulatory announcements, recap select enforcement actions, and preview upcoming deadlines and events. We also include links to our articles, blogs, and webinars with more analysis in these areas. As noted in the updates below, both agencies are in transition in the new Administration, and we will be watching closely for further updates.

Wiley also has launched a Trump Administration Resource Center and Resource Guide to track Executive branch priorities during the second Administration of President Trump. With Wiley's deep-rooted understanding of Washington and today's evolving regulatory landscape, the Resource Center and Resource Guide provide critical insights, actionable intelligence, practical solutions, and guidance across key industries to help businesses stay ahead of the curve and manage challenges in 2025 and beyond. Please reach out to any of our authors with any questions about recent Trump Administration actions and the potential impact on regulations or enforcement activity.

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Practice Areas

Advertising and Marketing

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FTC and Consumer Protection

Privacy, Cyber & Data Governance

Telecom, Media & Technology

Rulemaking Announcements

FTC Chairman Ferguson Appoints Deputy Directors for the Bureau of Competition and Bureau of Consumer Protection. On **February 18**, Chairman Ferguson appointed David Shaw as Principal Deputy Director and Kelse Moen as Deputy Director of the FTC's Bureau of Competition, and Douglas C. Geho as Deputy Director of the Bureau of Consumer Protection. Prior to his appointment, **David Shaw** served as a trial attorney and Chief of Staff for the U.S. Department of Justice's (DOJ) Antitrust Division. **Kelse Moen** most recently served as Senior Counsel to the U.S. Senate Judiciary Committee for Senator Lindsey Graham. **Douglas C. Geho** most recently served as Attorney Advisor to Commissioner Melissa Holyoak.

FTC Chairman Ferguson Announces that the FTC and DOJ's Joint 2023 Merger Guidelines Will Remain in Effect. On **February 18**, Chairman Ferguson issued a memo to staff announcing that the FTC and DOJ's joint 2023 Merger Guidelines, developed under former FTC Chair Khan, will remain in effect and will serve as the framework for the FTC's merger review analysis. Ferguson explained that "[b]y and large, the 2023 Merger Guidelines are a restatement of prior iterations of the guidelines, and a reflection of what can be found in case law. That is good reason to retain them." Additionally, he stated that stability is important for enforcement agencies and that "[t]he wholesale rescission and reworking of guidelines is time consuming and expensive" and "should be done sparingly."

FTC Launches Inquiry on Tech Content Moderation. On **February 20**, the FTC issued a Request for information (RFI) on tech content moderation policies (which we summarized here) to better understand how technology platforms may "deny or degrade" access to services. Specifically, the RFI seeks public comments on "how consumers may have been harmed by technology platforms that limited their ability to share ideas or affiliations freely and openly." The RFI seeks information on six main issues: (1) the circumstances under which technology platforms deny or degrade users' access to services; (2) the companies' public-facing policies about how they have moderated content; (3) whether users could challenge denials or degradation of service; (4) the platforms' content moderation activities' impact on users; (5) the factors motivating the platforms' adoption and enforcement of content moderation policies; and (6) the extent to which platforms' content moderation actions were made possible by a lack of competition or had an impact on competition. While the RFI does not announce any investigations or enforcement actions, it specifically notes that "[c]omments submitted in response to this RFI could inform the FTC's enforcement priorities and future actions." Public comments must be submitted by **May 21, 2025**.

Select Enforcement Actions

FTC Settles with Footwear Manufacturer and Its Owner for Allegedly Misleading Marketing Practices. On **January 15**, the FTC filed a stipulated order in the U.S. District Court for the District of Columbia against a footwear manufacturer and its owner for alleged violations of the FTC Act. In its 2022 complaint, the FTC alleged that the company made false claims to older consumers suffering from pain-related conditions like arthritis, without competent and reliable scientific evidence that its footwear contained technology that would relieve pain. The defendants agreed to pay \$175,000 in addition to injunctive relief.

Upcoming Comment Deadlines and Events

Please note that the following rulemakings were launched under former CFPB Director Chopra. They are still open for comment at the time of publication, and we will monitor activity by new leadership.

CFPB Seeks Comment on Proposed Rule to Expand FCRA to Data Brokers and Other Entities. Comments are due **March 3, 2025** on a CFPB Notice of Proposed Rulemaking (NPRM) that would expand the scope of the Fair Credit Reporting Act (FCRA) to cover certain data sharing practices and companies not currently subject to the law, including but not limited to “data brokers” (we summarized the NPRM here). Among other things, the proposed rule would update the FCRA’s definitions of “consumer report” and “consumer reporting agency” to cover entities that sell data about a consumer’s credit history, credit score, debt payments, or income or financial tier “regardless of the purpose for which any specific communication of such information is used or expected to be used.” Additionally, the NPRM would consider a company providing consumer information for non-FCRA purposes to still be providing a “consumer report” if the information *actually is* used for an FCRA-covered purpose “regardless of whether there is evidence that the consumer reporting agency knew or expected that the information would be used for such a purpose.”

The NPRM also proposes to regulate the provision of “credit header information,” such as names, dates of birth, Social Security numbers, phone numbers, and email addresses, if the information was originally gathered for purposes of preparing a consumer report. As a result, consumer reporting agencies that gather and sell such information would be restricted to selling it for FCRA-related purposes, such as credit or employment, but not other purposes like general fraud prevention.

CFPB Seeks Comment on Rulemaking on Coerced Debt. Comments are due **March 7, 2025** on the CFPB’s Advanced Notice of Proposed Rulemaking (ANPR) to address concerns related to information furnished to credit bureaus and other consumer reporting agencies involving coerced debt and identity theft. Coerced debt refers to situations in which people take out credit cards or loans under the threat of violence, physical violence, or manipulation from an abuser. Specifically, the ANPR seeks information on amending the definitions of “identity theft” and “identity theft report” in Regulation V to include information stemming from transactions that occurred without the consumer’s effective consent.

CFPB Seeks Comment on Interpretive Rule on EFTA Applicability and Issues RFI on Consumer Payment Data. Comments are due **March 31, 2025** on the CFPB’s Notice of Proposed Interpretive Rule to clarify the existing statutory and regulatory requirements governing electronic fund transfers (EFTs). Specifically, the proposed interpretive rule provides a framework for determining when the Electronic Fund Transfer Act (EFTA) and Regulation E – which give consumers the right to dispute transactions that are potentially fraudulent – would apply to new and emerging digital payment mechanisms.

CFPB Seeks Comment on Proposed Rule to Restrict Certain Contractual Clauses in Consumer Financial Product and Service Agreements. Comments are due **April 1, 2025** on an NPRM that proposes to prohibit certain contractual provisions in agreements for consumer financial products or services. Specifically, the proposed rule would prohibit covered persons from including any terms or conditions that purport to waive

substantial consumer legal rights and protections (or their remedies) granted by state or federal law, and would also prohibit contract terms that limit free expression.

CFPB Seeks Comment on the Collection, Use, and Sharing of Consumer Personal Financial Data.

Comments are due **April 11, 2025** on a Notice and Request for Information (RFI) to better understand how companies that offer consumer financial products or services collect, use, share, and protect consumers' personal financial data. Among other things, this RFI seeks comments on the effectiveness of existing regulations, how to strengthen the existing framework, and the types of data the public believes the CFPB should monitor on a routine basis.

More Analysis from Wiley

FTC Seeks Comment on Tech Content Moderation Policies

Wiley Welcomes Former FTC Deputy Director Ian Barlow, Strengthening Regulatory, Enforcement, and Compliance Capabilities

Trump Administration Seeks Input on AI Action Plan

10 Key Privacy Developments and Trends to Watch in 2025

CES 2025: FTC Commissioners Discuss Approach to AI in New Administration

FTC Adopts Amended Children's Online Protection Act Rule

Federal Cybersecurity Policy in 2025: What to Watch in Changing Times

Trump Administration Issues New AI Executive Order

Taking Stock of the Trump Administration's Regulatory Freeze

President Trump Revokes Biden Administration's AI EO: What To Know

FTC Announces Rule on "Junk Fees" and Pricing Disclosures in Certain Industries

10 Noteworthy CFPB Developments From 2024

CFPB Proposes to Expand Reach of Fair Credit Reporting Act to "Data Brokers" and Beyond

FTC Adopts Final "Click-to-Cancel" Rule with Requirements for Recurring Subscriptions

Updates on Cybersecurity Requirements for Government Contractors

Texas AG Brings SCOPE Act Enforcement Action Against TikTok – Just One Month After Law Took Effect

Key Takeaways from Our Conversation with Oregon and Texas Regulators About Privacy Enforcement

Podcast: Navigating State Privacy Laws: A Conversation with Oregon and Texas Regulators about Privacy Enforcement

Litigation Grows Around Website Technologies, With Focus on Sensitive Data

State "Right to Repair" Patchwork Grows as Electronic Device Manufacturers Face New Compliance Deadlines

White Paper on Telephone Consumer Protection Act Litigation Abuse

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