CLIENT ALERTS & INSIGHTS

FTC Enforcement Trends in 2026: What Businesses, Advertisers Should Be Watching Now

Insights and 2025-2026 Developments

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Key Takeaways

- In 2026, the FTC is intensifying enforcement on familiar issues: subscription and negative-option marketing, "Made in USA" claims, children's data privacy, and hidden fees, with a renewed focus on consumer clarity and transparency rather than sweeping new rules.
- Businesses face heightened legal and reputational risks if they obscure costs, make unsubstantiated origin claims, mishandle children's data, or hide mandatory fees. Regulators are actively pursuing violations, and recent settlements show that penalties can be significant.
- Companies can prepare by auditing their subscription flows, advertising claims, data practices, and pricing disclosures to ensure compliance with both federal and state requirements. Proactive, routine reviews and clear documentation are essential to avoid costly enforcement actions in this evolving regulatory environment.

Regulators continue to signal a return to core consumer-friendly principles through new rulemaking initiatives, and recent enforcement activity, warning letters, and public commentary offer a practical preview of where scrutiny is likely to concentrate in 2026. The themes are familiar but sharpened: subscription and negative-option marketing practices that obscure true costs or frustrate cancellation; unqualified "Made in USA" claims lacking rigorous substantiation; the collection and use of children's data in digital advertising environments; and pricing practices that conceal fees until late in the purchase process. Together, these signals point to an enforcement landscape that rewards consumer clarity and transparency, while leaving little tolerance for ambiguity.

Cyclical debate over the scope of federal regulation has left businesses seeking confirmation on where consumer protection enforcement is headed. Remarks from former Federal Trade Commission ("FTC") Commissioner Melissa Holyoak, increased litigation and regulatory action offer a meaningful preview of what is to come in 2026. Businesses that operate subscription-based services, collect consumer data or advertise products or services with added fees must treat compliance as an operational discipline to be better positioned to navigate increased regulatory attention.

Negative Option & Subscription Practices: Transparency Over Friction

Subscription services, automatic renewals, and free-trial models remain central to modern digital commerce. Consequently, they represent one of the most active and visible enforcement categories. Regulatory focus is not directed at the existence of subscription programs themselves, but rather at how those programs are presented, disclosed, and terminated. Design features that obscure material terms, delay cancellation, or introduce unnecessary friction are increasingly characterized as deceptive or unfair under the Restore Online Shoppers' Confidence Act ("ROSCA") and Section 5 of the FTC Act-even when the underlying product or service is legitimate.

The FTC's Negative Option or "Click to Cancel" Rule (the "Rule"), under which a consumer's inaction may result in continued recurring charges, was set to take effect on July 14, 2025, but was shelved in part after the Eighth Circuit ruled that the FTC failed to provide a meaningful opportunity for public comment, including the opportunity to dissuade the FTC from adopting the proposed Rule.

Even so, a wave of publications, announcements and legislation-including the FTC's recent submission of proposed rulemaking on negative option plans-underscores renewed momentum toward a consistent principle: informed consent, clear pricing disclosures and user flows that simplify cancellation and minimize consumer confusion.[i]

Equally significant is the growing state-level emphasis on post-enrollment communications, timely renewal reminders, and material-change notifications.

State Automatic Renewal Law Trends to Watch



Although statutory language varies by jurisdiction, the directional trend is uniform: cancellation must be as easy as enrollment; and disclosures must be unavoidable rather than optional. Former FTC Commissioner Holyoak reemphasized these priorities, noting that consumers continue to be drawn into subscriptions they never intended to join and often encounter cancellation processes that are unnecessarily burdensome. See *FTC v. Legion Media LLC, et al.*, (Dec. 9, 2025) (obtaining $27.6 million for 1,215,337 affected consumers); see also *FTC v. Amazon.com, Inc.* (Sept. 25, 2025) (obtaining a record $2.5 billion settlement).[ii]

Practical Takeaways

In 2026, businesses should refocus efforts to:

- Conduct quarterly or annual audits of subscription sign-up and cancellation flows
- Align cancellation methods with the medium used to enroll
- Maintain contemporaneous records of consumer consent
- Build renewal and price-change reminders into online systems
- Train marketing teams and outside vendors on legal requirements to ensure that the mandatory disclosures are made and user cancellation flows are transparent

“Made in USA” Claims: Documentation Is Key

Product origin representations continue to carry significant weight with consumers, and unqualified “Made in USA” claims remain a high-risk advertising category. Under the FTC’s Made in USA Labeling Rule, unqualified claims generally require a showing that all or virtually all significant processing and component parts originate domestically. This substantiation threshold must be supported by evidence and documentation.

Increasingly, regulators are scrutinizing[iii] not only the origin claim itself but also the internal processes used to validate “Made in USA” claims. See:

- In the matter of *Sleep Holdco, LLC* (February 21, 2025) (FTC required the company to: (1) not overstate the extent to which products are made in the U.S., particularly when materials include both foreign and domestic parts; and (2) provide clear and conspicuous origin disclosures that highlight U.S. products).[iv]
- In the matter of *Buckingham Manufacturing Co. Inc.* (January 21, 2025) (required the company to institute a compliance monitoring plan and to recall products with labeling-express or implied-that lacked U.S. origin substantiation).[v]
- *United States of America v. Williams-Sonoma, Inc.*, No. No. 3:24-cv-2396 (N.D. Cal. April 22, 2024) ($3.175 million judgment for unsubstantiated origin and Made in USA claims).
- In the matter of *Instant Brands LLC* (March 1, 2023) (FTC issued more than $88,000 in refunds to nearly 10,259 consumers for false Made in USA representations in kitchen and home products). [vi]

Practical Takeaways

- Maintain records of any supply-chain and component-origin audits
- Avoid overbroad “Made in USA” representations and qualify origin claims where appropriate
- Review the FTC’s compliance checklist
- Implement a routine review of protocols for all origin representations

Children’s Data & COPPA: A Persistent Priority

Protection of children’s data under the Children's Online Privacy Protection Act of 1998 (“COPPA”) [1] and youth-focused advertising practices continue to be a central enforcement theme as digital platforms evolve. Advertising technologies, interactive applications and AI-driven tools have expanded the ways in which personal information may be collected, prompting heightened scrutiny of parental consent mechanisms and data retention policies.

The FTC increasingly evaluates whether services directed toward minors incorporate meaningful age-screening methods, limit data collection to what is reasonably necessary, and provide parents with accessible rights to review or delete information. Agencies appear to be scrutinizing both

businesses directly and the third-party vendors they rely on for payment processing, customer service, website analytics, and product development. On September 10, 2025, the FTC issued orders to seven companies under Section 6(b) of the FTC Act to collect information regarding their use of Generative AI, the impact of AI chatbots on children, the handling and sharing of user data with third parties, and what actions companies are taking to mitigate negative impacts or restrict children's use of certain online platforms. These companies included Instagram, Meta, OpenAI, and Snap, Inc.

COPPA Compliance Essentials

- **Parental Consent:** Obtain verifiable parental consent before collecting or disclosing personal information
- **Notice:** Provide clear, prominent and easily accessible privacy notices identifying collected information and its use
- **Opt Out:** Offer parents meaningful access, correction and refusal or deletion rights
- **Authorized Use:** Limit data retention to defined and documented purposes to avoid misuse
- **Prohibited Incentives:** Avoid conditioning a child's participation in activities or the offering of prizes on disclosure of more personal information than is reasonably necessary
- **Confidentiality:** Maintain written and regularly tested security programs
- **Recordkeeping**: Maintain consent records and data retention policies
- **Audit:** Reevaluate compliance policies whenever platform features or audience demographics change
- **Review:** FTC compliance checklist

All-In Pricing & "Junk Fees": Up-Front Total Cost Requirements

Pricing transparency has emerged as another regulatory focal point, particularly where mandatory fees are disclosed only after a consumer has progressed deep into a transaction. Regulatory agencies-including the Consumer Financial Protection Bureau (CFPB), Federal Communications Commission (FCC), and Department of Housing and Urban Development (HUD)-have joined the FTC in rejecting what they deem unfair or deceptive "bait-and-switch" pricing or fee tactics.

"*People deserve to know up-front what they're being asked to pay-without worrying that they'll later be saddled with mysterious fees that they haven't budgeted for and can't avoid*," said Former FTC Commissioner Lina M. Khan. Hence, on May 12, 2025, 16 CFR Part 464 went into effect to eliminate hidden service charges or undisclosed processing fees across travel, ticketing, hospitality and digital-services industries. The Final Rule-which applies to both business-to-business and business-to-consumer transactions-narrowed the definition of "covered good or service" to include: (1) Live-event tickets or (2) Short-term lodging (hotels, motels, inn accommodations, vacation rentals, short-term rentals and lodging).

Key Compliance Measures

- Present clear and conspicuous fee disclosures that are prominent and "difficult to miss"
- Display total mandatory pricing up front, notwithstanding discounts or promotions
- Ensure that advertisements and landing pages match final checkout pricing
- Display credit card surcharges or processing fees if payment by credit card is mandatory
- Conduct regular internal audits to confirm price consistency across platforms

The Junk Fees Rule excludesonlythree categories of fees: (1) government charges such as taxes; (2) shipping charges; and (3) charges for optional ancillary goods or services (e.g., valet parking, trip protection plan, separate event packages). The young law has already resulted in warning letters to global online brands like StubHub Holdings, Inc., and the FTC continues to caution against minimizing pricing transparency in person and online.

Conclusion: Back to Basics

The anticipated enforcement landscape for 2026 does not introduce entirely new categories of risk; instead, it sharpens attention on areas that consistently generate consumer complaints and regulatory interest.

Businesses should engage legal counsel early and often to review their advertising practices and unburden any compliance concerns.

For questions about how these trends may affect your business, please contact Ruddy S. Abam and Matthew David Ridings.

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[1] COPPA was last amended on December 15, 2025. The Act defines "child" as any individual under the age of 13.

[i] *See* Consumer Federation of America (CFA) and the American Economic Liberties Project (AELP) Petition for Renewed Rulemaking Concerning Negative Option Plans

[ii] *See* ARL-related settlements and values reached by both the FTC and the California Automatic Renewal Taskforce ("CART"): A New Era of Auto-Renewal: A Closer Look at the New FTC and California Requirements | Benesch, Friedlander, Coplan & Aronoff LLP

[iii] *See* Federal Trade Commission Warns Companies to Comply with "Made in USA" Requirements | Federal Trade Commission (Jul. 8, 2025)

[iv] *See* FTC Closing Letter to Sleep Holdco, LLC (Feb. 21, 2025)

[v] *See* FTC Closing Letter to Buckingham Manufacturing Co. Inc. (Jan. 21, 2025)

[vi] *See* FTC Sends Refunds to Consumers Who Bought Pyrex Glass Manufacturer's Products Falsely Advertised as Made in USA | Federal Trade Commission (Oct. 1, 2024)