CLIENT ALERTS & INSIGHTS

One Year In, FTC's "Operation AI Comply" Continues Under New Administration, Signaling Enduring Enforcement Focus

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Key Takeaways:

- What began last fall as a signature policy under the previous administration has demonstrated its staying power. The Federal Trade Commission (FTC) is actively continuing "Operation AI Comply," its targeted initiative against deceptive marketing claims involving artificial intelligence. The agency continues to bring actions against businesses across industries for "AI washing" and deceptive advertising.

- Companies using AI in their marketing must be able to substantiate every claim they make, both explicit and implicit. This ongoing enforcement signals significant legal and reputational risks for any company promoting AI-powered products or services. The FTC is scrutinizing claims about AI performance, earnings potential and authenticity-and violations can result in multimillion-dollar penalties, compliance orders and costly investigations.
- Businesses should audit all marketing materials for AI-related claims, ensure every statement is backed by solid evidence and train teams to use precise, substantiated language. Treat any mention of "AI" as a compliance red flag-proactive review and documentation are essential to avoid regulatory action.

Background: "AI Washing" Announced as an FTC Enforcement Priority in 2024

When ChatGPT was released in late 2022, public perception of AI transformed from a futuristic concept into a present-day reality. Unsurprisingly, companies soon began marketing their products and services as being powered or enhanced by AI.

The FTC recognized the potential for companies to oversell a technology that few people truly understand. In September 2024, the FTC, then led by Chair Lina Khan, launched "Operation AI Comply," a pledge to combat what the Commission called "AI washing." This initiative targeted companies making unsubstantiated or misleading claims about their use of AI or the benefits that would flow to consumers through AI. The operation was unveiled with five simultaneous enforcement actions, signaling a new and aggressive focus on how technology is marketed.

The FTC's initial wave of five enforcement actions under "Operation AI Comply" provides a window into the agency's thinking and its priorities. These cases deliberately targeted a cross-section of

industries to demonstrate the broad applicability of truth-in-advertising laws, revealing three distinct areas of focus that remain central to the FTC's mission.

First, the FTC targeted **baseless promises of wealth and performance**. In cases against coaching and service businesses, the agency alleged that the companies used the "AI" label as a hook to lend credibility to classic get-rich-quick schemes. For example, its suits against Ascent Ecom, Ecommerce Empire Builders and FBA Machine targeted representations that the defendant companies' use of AI enabled customers to generate significant passive income through online storefronts.[1] In these cases, the FTC's message was that AI is not a magic wand, and any claims of specific financial or performance outcomes must be substantiated with rigorous proof.

Second, the agency challenged companies that **misrepresented the capabilities of the AI itself**. In one notable case, a company marketed its AI service as "the world's first robot lawyer," but never tested its software's capabilities against those of human lawyers.[2]

And ***third***, the agency targeted a company that offered its AI platform to **help companies deceive consumers**. Rytr marketed its AI writing assistant for a variety of uses, including generating fake online testimonials and reviews. The FTC's complaint alleged that facilitating false and deceptive online content itself violated the FTC Act.

Together, these inaugural cases sent an unmistakable message that has been echoed in every AI-related enforcement action since: adding "AI" to the description of a product or service invites additional scrutiny from the FTC.

Enforcement Continues in 2025, Underscoring Bipartisan Consensus

Any speculation that this enforcement priority would fade with a change in administration has been put to rest. Throughout 2025, the FTC has not only continued this focus but has brought new cases that follow the same blueprint.

Recent enforcement actions this year, such as the actions against Click Profit and Workado, show that the FTC's scrutiny has continued-and perhaps even intensified. These companies were cited for making baseless claims about generating passive income through AI-driven platforms. The FTC's actions in these matters reveal a consistent enforcement posture, focused on protecting consumers from earnings claims supercharged by the hype surrounding AI.

The FTC targeted Click Profit because it presented its service as an online business opportunity that promised "an automated, AI-powered system" to generate thousands of dollars a month in passive income.[3] Those promises went unfulfilled. A fifth of its customers earned no money from their digital storefronts after deducting hosting fees, and another third of its customers earned under $2500.[4] The FTC's enforcement action led to over $20 million in judgments against the company's founders.[5]

Workado's unsubstantiated claims that its AI-detection software was 98% accurate spurred an FTC complaint. The FTC's investigation concluded that the true accuracy rate was only 53%-essentially a coin flip. While Workado escaped a monetary penalty, the FTC's proposed order requires it cease marketing the accuracy of its product, send consumers notice of the order entered against it and submit to compliance monitoring.[6]

While the Click Profit and Workado matters have been resolved, other AI-focused actions by the Commission remain pending. The FTC sued to enjoin Air AI from advertising its services to entrepreneurs and small businesses through deceptive claims about business growth and earnings potential.[7] Specifically, the agency targeted the company's claims that one of their products can replace human customer-service representatives and that purchasing a suite of their products will enable small businesses to earn tens of thousands of dollars in a matter of days or months. Because the average customer enjoys no such return, the FTC contends that these representations about the AI suite's power are deceptive.

And the Commission recently launched an inquiry into some of the world's largest tech companies, including Alphabet, Meta, Snap and OpenAI. The inquiry targets the companies' AI chatbots, and specifically, what the companies are doing to evaluate the risks of children using those chatbots as companions.[8] While the Commission has not yet filed a formal complaint against any of those companies, the inquiry itself will require substantial person hours and legal fees-to say nothing of the risk of further agency action.

What Are Regulators Looking For?

Based on the FTC's actions, from the initial "Operation AI Comply" cases to the most recent ones, companies should be aware that regulators are scrutinizing any advertising that makes claims related to:

- **Performance & Efficacy:** Does the AI tool perform as advertised?
- **Lawful Purpose:** Is the AI tool being sold for a lawful purpose or to enable deception?
- **Income & Earnings:** Are you promising financial success or a specific return on investment?
- **Authenticity:** Are the examples of your AI's output (e.g., AI-generated images or text) genuine and not deceptively edited?

Actionable Steps for Your Business

To mitigate risk, we recommend the following:

- **Conduct a Marketing Audit:** Review all public-facing materials-from your website and social media to sales scripts-and identify every claim made about your use of AI.
- **Substantiate Every Claim:** For each claim identified, gather and document the evidence that proves it is true. If you claim your AI improves client outcomes by 50%, you must have reliable data to back it up.
- **Treat "AI" as a Red Flag:** Recognize that using the term "AI" in your marketing places a target on your back. Ensure that your claims are not just technically true but are also clear and not susceptible to misinterpretation by the average consumer.
- **Train Your Marketing and Sales Teams:** Ensure that anyone speaking on behalf of your company understands the importance of precise, substantiated language when discussing AI.

The FTC has made its position clear: because a reference to “AI” may put your products in the consumer spotlight, it is also more likely to place them under the FTC’s microscope.

[1] FTC September 25, 2024 Press Release (available at https://www.ftc.gov/news-events/news/press-releases/2024/09/ftc-announces-crackdown-deceptive-ai-cla

[2] *Id.*

[3] FTC March 18, 2025 Press Release (available at https://www.ftc.gov/news-events/news/press-releases/2025/03/ftc-acts-stop-click-profit-online-business-o)

[4] FTC August 25, 2025 Press Release (available at https://www.ftc.gov/news-events/news/press-releases/2025/08/ftc-case-against-e-commerce-business-op)

[5] *Id.*

[6] FTC August 28, 2025 Press Release (available at https://www.ftc.gov/news-events/news/press-releases/2025/04/ftc-order-requires-workado-back-artificial-i)

[7] FTC August 25, 2025 Press Release (available at https://www.ftc.gov/news-events/news/press-releases/2025/08/ftc-sues-stop-air-ai-using-deceptive-claims)

[8] FTC September 11, 2025 Press Release (available at https://www.ftc.gov/news-events/news/press-releases/2025/09/ftc-launches-inquiry-ai-chatbots-acting-co)