



“What’s your marketing plan?”

“Garum of Scaurus, the best quality of mackerel”



Woman's Face Is Her Fortune.

DR. SIMM'S ARSENIC COMPLEXION WAFERS



After a few days' use will permanently remove Blotches, Moles, Pimples and Freckles, producing an Entrancingly Beautiful Complexion that shames the use of powders and creams. Warranted perfectly harmless. Sold by all leading druggists at \$1 per box of 100 wafers. Dr. Simm's Safe Periodical Wafers are sure and reliable for all female irregularities. Price \$2 per box. Sent by mail (secure) on receipt of price. Warranted to contain no "Tansy" or "Pennyroyal."

THUMLER & Co., 83 Chambers St., New York.



According to repeated nationwide surveys,

More Doctors Smoke **CAMELS** than any other cigarette!

Doctors in every
branch of medicine
were asked, "What
cigarette do you smoke?"
The brand named most
was Camel!

You'll enjoy Camels for the same reasons
so many doctors enjoy them. Camels have
cool, cool *mildness*, pack after pack, and
a *flavor* unmatched by any other cigarette.

Make this sensible test: Smoke only
Camels for 30 days and see how well Camels
please your taste, how well they suit
your throat as your steady smoke. You'll
see how enjoyable a cigarette can be!

THE DOCTORS' CHOICE IS AMERICA'S CHOICE!



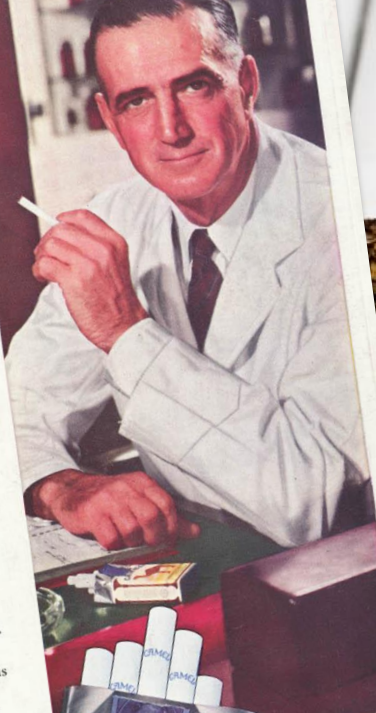
MAUREEN O'HARA says: "I pick Camels. They agree with my throat. I taste wonderful!"



DICK HAYMES states: "I get more pleasure from Camels than from any other brand!"



RALPH BELLAMY reports: "Camels suit my taste and throat. I've smoked 'em for years!"



...is your "T-Zone" (T for Throat, T for Taste).





When one is selling wares it is lawful for him to say the best he can to raise the price, and although the vendee buy it at his price, if he has no warranty, or at least reliance on the promises and prices

An action on the case does not lie although he is deceived, for caveat emptor and the book of 42 Ass. 8, pl. 8, is expressly “the plaintiff relying on the truth of the defendant”

Chandelor v. Lopus, Court of Exchequer, 1603

Any person, firm, corporation, or association, who, with intent to sell or in any wise dispose of merchandise ... makes, publishes, disseminates, circulates, or places before the public ... an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, **which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading,** shall be guilty of a misdemeanor

Unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, are hereby declared unlawful. 15 U.S.C. § 45(a)(1)

Any person who ... in commercial advertising or promotion, misrepresents the nature, characteristics, qualities, or geographic origin of his or her or another person's goods, services, or commercial activities ... shall be liable in a civil action by any person who believes that he or she is or is likely to be damaged by such act. 15 U.S.C. § 1125

“Over the last 18 months, the rapid deployment of artificial intelligence tools has captured the world’s attention, spurring some combination of awe, wonder, apprehension, and fear. We hear how these automated technologies could open the door to breakthroughs across fields ranging from science to education, making life better for millions of people. But we also already see how these tools can turbocharge fraud, automate discrimination, and entrench surveillance, putting people in harm’s way.”

**Remarks of FTC Chair Lina Khan,
FTC Tech Summit, January 25, 2024**



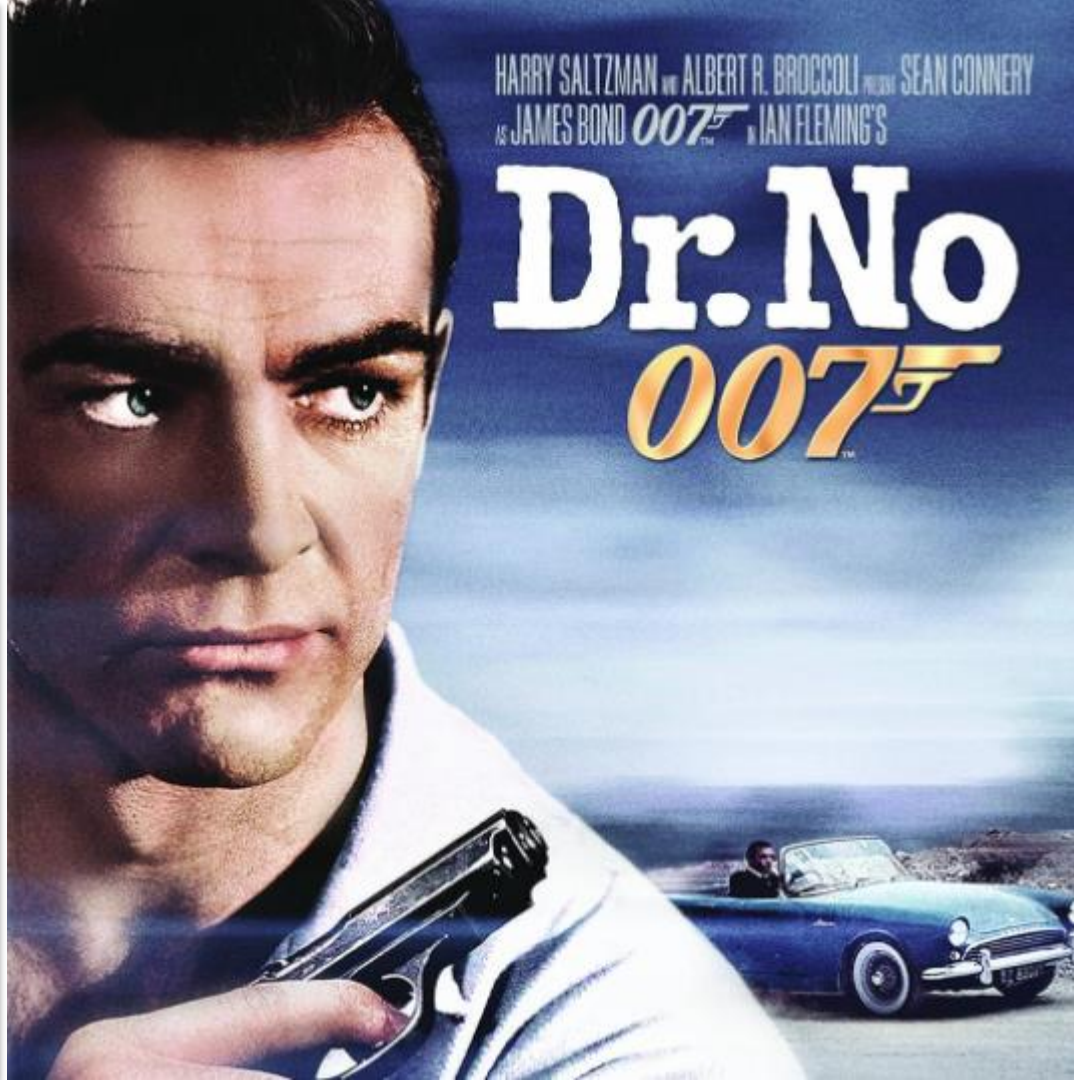
**TOUGH
DECISIONS
AHEAD**



HARRY SALTZMAN AND ALBERT R. BROCCOLI PRESENT SEAN CONNERY
AS JAMES BOND 007™ IN IAN FLEMING'S

Dr. No

007™



“No single set
of legal rules
can ever capture the
ever changing
complexity of human
life.”

Former Supreme Court Justice
Stephen Breyer









Consumergeddon

Notes From Seller

XFER

Fees

Service Fee: \$0.85 x 2	?	\$1.70
Order Processing Fee	?	\$3.95

***All Sales Final - No Refunds**

I have read and agree to the current [Terms of](#)

NO MORE JUNK FEES?

THE FTC'S PROPOSAL TO
PROTECT CONSUMERS



Your order summary

Ticket Price	1 × US\$ 6
Fulfillment and Service Fee ⓘ	1 × US\$ 8

Total Price **US\$ 14**



Your \$6 ticket ⓘ

StubHub's Pricing Practices

The complaint alleges that StubHub's pricing practices constitute deceptive 'dark patterns' for several reasons:

First, By advertising low prices and revealing fees later in the process, StubHub engages in 'drip pricing. To make matters worse, consumers are confronted with a countdown clock to complete their purchase, which creates a false sense of urgency.

Second, The title 'Fulfillment and Service Fees' is deceptive, because the prices are influenced by factors other than 'fulfillment' or 'service,' including ticket price and demand.

Third, Although StubHub offers an 'Include Estimated Fees' option – which displays all ticket prices with estimated fees – the option is hidden under multiple drop-down menus, making it unlikely for a reasonable user to find them. Even with the 'Estimated Fees' option engaged, the ticket prices still do not include all fees.

**Lawmakers and
regulators want to
build their arsenal**

**Specifically target
deceptive pricing practices**

Secure civil penalties

A photograph of Joe Biden speaking at a podium. The podium features the Seal of the President of the United States. Behind him are several American flags and a blue flag with the Presidential Seal. The image is overlaid with a semi-transparent dark blue rectangle containing text.

Junk Fee Ban


**Biden Endorses FTC Proposed Rule
To Ban Junk Fees**

The seller's total advertised price for a product must include - *all charges to be paid* by a consumer for such product, other than – government mandated taxes or actual delivery costs

Optional fees can be *excluded* from the total disclosed upfront price (like shipping charges or voluntary tips)



 Consumer Protection

 Legislation

FEBRUARY 6, 2024 | Albany, NY

Governor Hochul Announces New Law to Clarify Disclosure of Credit Card Surcharges Goes Into Effect Sunday, February 11

Governor Hochul Signed into Law in December 2023 for Greater Consumer Protections and More Transparency Business Transactions Imposing a Credit Card Surcharge Must Post Total Price of Transactions, Including Surcharge, Prior To Sale

To Assist Businesses, the Department of State has Created a Credit Card Surcharge [Guide](#) and [Video](#) to Help Businesses Comply with the Law

Similar to the FTC's proposed Rule, the California law stipulates that the only amounts that businesses will be allowed to exclude from advertised prices will be government taxes or fees and reasonably and actually incurred postage or carrier charges to ship a physical good

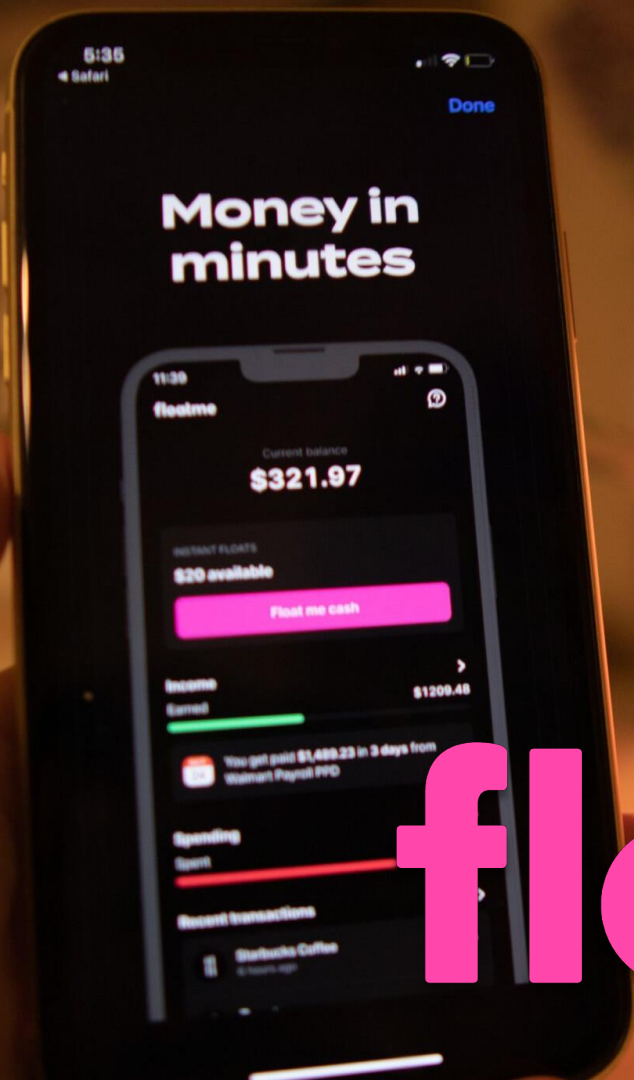
Optional fees, features, gratuities and fees that are contingent on later conduct (e.g., late fees) do not need to be included in the advertised price



What are dark patterns?

“Tricks used in websites and apps that make you do things that you didn’t mean to, like buying or signing up for something.”

Harry Brignull



floatme





Notably, the FTC alleged that Care.com

1. Made it unreasonably difficult to find cancellation information
2. Added multiple “roadblocks” to canceling

Care.com

1

- Had least four exits to the cancellation process

2

- Required completion of three pages of questions prior to cancellation

3

- Twice warned of the consequences of canceling,

4

- Presented a new offer – the purchase of one different membership in lieu of canceling

The FTC's "Click to Cancel" Rule

This rule is helping the FTC get money back to people who are misled, and addressing common problems:

- ▶ Sellers who don't tell the truth or leave out necessary information.
- ▶ People who get billed when they didn't agree to pay.
- ▶ Sellers who make it hard — or impossible — to cancel.



The rule further requires:

- Specific disclosure of material auto-renewal terms
- An easy and immediate cancellation mechanism

The FTC can use its “**Click to Cancel Rule**” to obtain monetary penalties for failure to disclose a material fact in any aspect of marketing a negative option product – not just the negative option feature itself

The FTC walked back two business-unfriendly provisions in its proposed rule

Companies will not be required:

1. to send annual reminders for month-to-month subscriptions, or
2. to only make “save” offers if the consumer expressly consents to receive them

- Stricter consent obligations
- More prescriptive consumer “saves”
- Changes to renewal and price change notifications
- Prohibiting misrepresentations unrelated to the negative option feature



CALIFORNIA

AUT CONCEL

CLICK CANCEL

NEW AUTO-RENEWAL

SNEAKY SUBSCRIPTIONS & FREE TRIALS

SNEAKY SUBSCRIPTIONS & FREE TRIALS

CONTANTA

SNEAKY SUBSCRIPTIONS

SNEAKY SUBSCRIPTIONS

CANCEL





RISK

REWARD





"C is for class action suit..."



Best Prices in
Town!

~~\$5~~
\$2.99





**PFAS
FREE**

How Do You Protect Yourself?

1. Know what's in your product and what's not
2. Be current with hot button issues and filed consumer class actions
3. Use available tools (like disclaimers) to help reduce the risk of known issues

“CarShield
cars go
FARTHER.”



-Ice T
CarShield Customer

CarShield, Nationwide Seller of Vehicle Service Contracts, to Pay \$10 Million to Resolve Federal Trade Commission Charges of Deceptive Advertising

Defendants also barred from misrepresentations by its celebrity endorsers, including Ice-T

July 31, 2024 | [f](#) [X](#) [in](#)

Tags: [Consumer Protection](#) | [East Central Region](#) | [Bureau of Consumer Protection](#) | [Advertising and Marketing](#) | [Endorsements, Influencers, and Reviews](#) | [Online Advertising and Marketing](#)

NRRM, LLC, which does business as CarShield, along with American Auto Shield, LLC (AAS), the administrator of its vehicle service contracts



[Related Cases](#)

[CarShield](#)

[For Consumers](#)

[Blog: FTC says CarShield didn't cover car repairs as advertised](#)

FTC' Settlement with CarShield

- Alleged that claims about covered repairs and scope of protection were misleading
- FTC cited claims about CarShield's vehicle service contracts providing "peace of mind" to consumers
- Failed to clearly convey major exclusions and conditions of coverage
- Further alleged that celebrity endorsers were not "real" customers, despite claims to the contrary



National Programs

National Advertising
Division®

WORLD'S
GREATEST



LAWYER

The Evolution of Telecommunications

1876

Telephone invention



29-year-old Alexander Graham Bell invented the **first telephone** & in 1903 received a patent for his revolutionary new invention.

1926

1st transatlantic phone call



In March, the **first transatlantic phone call** became a reality, since it **was made from** London to New York.

1946

Area codes



Area codes, which suggest the numbers that need to be dialed in order to call a specific location, were **firstly initiated**.

1973

1st mobile phone



The first mobile phone was introduced by Martin Cooper. He was the 1st individual who made a **handheld mobile phone call** in public.

1991

2G technology



2G technology was introduced for the very **first time**, in Finland by Radiolinja, a **Finnish operator in GSM**

2001 till today

Internet of things



VoIP Internet Telephony, **mobile Internet**, **Wi-fi**, **digital technology**, **4G network**, **smartphones**, **mob apps**, **cloud computing**, **Internet of things** & **many innovative technologies were developed**.

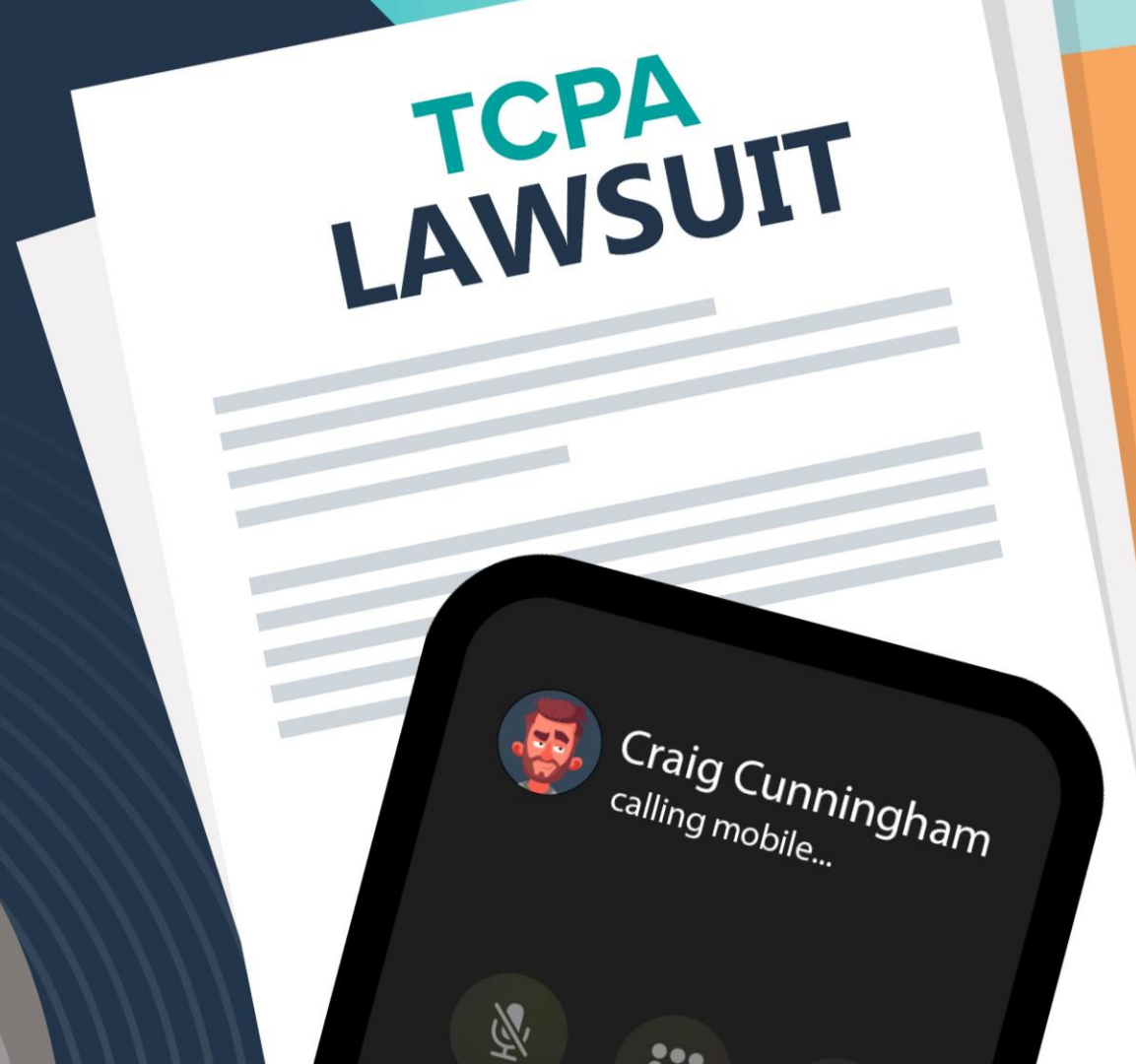


Telemarketing

[te-lə-'mär-kə-tiŋ]

The direct marketing of goods or services over the telephone or the internet.





FCC One to One Rule

- Must obtain consent that is specific to the caller
- Consent must be logically related to the reason why consent was provided
- Critical to review the context in which phone numbers were provided
- Records relating to the nature and scope of consent must be maintained

FCC Consent Revocation

- FCC clarified that consumers have the right to revoke consent at any time, by any reasonable means
- Companies are allowed a one-time confirmatory text
- But, this text cannot be used to:
 1. send marketing content, or
 2. attempt to dissuade a consumer from revoking their consent





YOU CAN'T
SCARE ME
I'M A
TELEMARKETER



Unknown Call
No Caller ID



FTC Priorities Under Current Administration

- Expand the scope of FTC jurisdiction
- Launch rulemaking efforts
- Focus on new and innovative business practices
- Redefine the rules of the road for e-commerce
- Impose severe financial costs for deceptive practices
- Tag executives with personal liability

A large, dark grey sign with white text is positioned in the foreground, partially obscuring the view of the Federal Trade Commission Building. The building is a grand, classical-style structure with a prominent portico supported by several tall, white columns. The sky is clear and blue, and there are green trees in the background. The sign is tilted slightly to the right.

UNITED STATES

**FEDERAL
TRADE
COMMISSION
BUILDING**

A PWC study of 20,000 consumers across 31 countries and territories revealed that:

- 85% have experienced the effects of climate change first hand
- 80% are willing to pay more for sustainable produced items or goods
- Consumers are willing to pay an average of 9.7% more for goods that meet certain environmental criteria, including:
 - Locally sourced
 - Made from recycled or eco-friendly materials
 - Produced in a supply chain with a lower carbon footprint

greenwashing

noun / grēn- ,wò-shiŋ - ,wä-

The act or practice of making a product, policy, activity, etc. appear to be more environmentally friendly or less environmentally damaging than it really is

FTC Guides for the Use of Environmental Marketing Claims, 16 C.F.R. § 260.3

“An environmental marketing claim should not overstate, directly or by implication, an environmental attribute or benefit. Marketers should not state or imply environmental benefits if the benefits are negligible.”

“It is deceptive to misrepresent, directly or by implication, that a product, package, or service offers a general environmental benefit.”

Modernize the FTC's approach to Green Marketing

Likely Updates to the Green Guides

Add new defined terms regarding
common green marketing practices

Open Questions

- How will the FTC reflect climate change in the new Green Guides?
- Will the FTC change its approach to recyclability?
- What will the standard be for “carbon neutral”?
- Can carbon offsets be considered?
- Is “sustainable” an unqualified statement of environmental benefit?

- *“JBS is committing to be net zero by 2040”*
- *“Global Commitment to Achieve Net-Zero Greenhouse Emissions by 2040”*
- *“Bacon, chicken wings and steak with net zero emissions. It’s possible”*
- *“Leading change across the food industry and achieving our goal of net zero by 2040 will be a challenge. Anything less is not an option”*
- *“The SBTi recognized the net zero commitment of JBS”*



National Advertising Review Board Recommends JBS Discontinue “Net Zero” Emissions by 2040 Claims

New York, NY – June 20, 2023 – A panel of the [National Advertising Review Board](#) (NARB), the appellate advertising body of BBB National Programs, recommended that JBS USA Holdings, Inc. discontinue certain claims relating to its goal of achieving “net zero” emissions by 2040.

JBS is the second-largest food company and the largest animal protein producer in the world. Its numerous retail brands include Swift, Pilgrim’s Pride, and Seara.

NET
ZERO
emissions

- *City & County of Honolulu v. Sunoco LP et al.*
- *Bucks County v. BP PLC et al.*
- *Makah Indian Tribe v. Exxon et al.*
- *County of Multnomah v. Exxon et al.*
- *City of Chicago v. BP et al.*
- *The People of the State of California v. ExxonMobil et al.*
- *Platkin v. ExxonMobil et al.*



ROB BONTA

Attorney General

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Attorney General Bonta Sues ExxonMobil for Deceiving the Public on Recyclability of Plastic Products

[Press Release](#) / [Attorney General Bonta Sues ExxonMobil for Deceiving the Pub...](#)

“For decades, ExxonMobil has been deceiving the public to convince us that plastic recycling could solve the plastic waste and pollution crisis when they clearly knew this wasn’t possible. ExxonMobil lied to further its record-breaking profits at the expense of our planet and possibly jeopardizing our health. Today’s lawsuit shows the fullest picture to date of ExxonMobil’s decades-long deception, and we are asking the court to hold ExxonMobil fully accountable for its role in actively creating and exacerbating the plastics pollution crisis through its campaign of deception.”
– California Attorney General Rob Bonta.



carbon

neutral

forever

Certified carbon neutral today.

Committed to a more sustainable tomorrow.

[Learn more on evian.com](https://www.evian.com)



Dorris v. Danone Waters of America

- Reasonable consumers reviewing the Product's label and packaging would believe the manufacturing of the Product is sustainable and does not leave a carbon footprint based on Defendant's representations
- However, Defendant's representation that the Product is carbon neutral is false:
 - Defendant's manufacturing of the Product still causes carbon dioxide (CO₂) to be released into the atmosphere
- Accordingly, the carbon neutral claim is false and misleading because the Product's manufacturing process is not carbon neutral, and consumers would not have purchased the Product, or paid substantially less for it, had they known the carbon neutral claim was not true

Complaint, Case 7:22-cv-08717 (Oct. 13, 2022)

Dorris v. Danone Waters of America

- “Carbon neutral” is an ambiguous term, and evidence shows that consumers are confused by it
- Defendant also expects too much from consumers to learn what it means when it places “carbon neutral” on the Product’s label
- Accordingly, the Court concludes that at this stage it cannot determine as a matter of law that a reasonable consumer could not be confused or misled by the “carbon neutral” representation

Opinion & Order, Case 7:22-cv-08717 (Jan. 10, 2024)

Daly v. Danone Waters of America
Case 1:24-cv-02424 (Nov. 6, 2024)

“The regulation defines ‘spring water’ as, in part, the water that is harvested from a ‘natural spring’ As long as water comes from a ‘natural spring’ it can be labeled ‘spring water,’ and by extension ‘natural.’”

Combating Auto Retail Scams



The FTC's CARS Rule protects consumers and benefits honest dealers.

Here's how:

1

Prohibits misrepresentations about material information.

The CARS Rule makes it illegal for a dealer to make misrepresentations about certain topics that would affect a consumer's buying or leasing choices. Deceptive claims about price, financing, or add-ons are a few examples.

2

Requires dealers to clearly disclose the offering price – the actual price anyone can pay to get the car, excluding only required government charges.

Before they visit the dealership and throughout the transaction, consumers have the right to know the drive-off-the-lot price. If a dealer mentions optional add-ons, the dealer has to tell the consumers they can say no. And if discussing a monthly payment, the dealer has to tell the consumer the total payment.

3

Makes it illegal for dealers to charge consumers for add-ons that don't provide a benefit.

Under the CARS Rule, if the consumer won't benefit from an add-on product or service, the dealer can't charge for it.

4

Requires dealers to get consumers' express, informed consent before charging them for anything.

That means no surprise fees or hidden charges. Dealers must get a buyer's clear and informed "yes" to what they're buying and how much they're being charged.

IT IS ORDERED THAT the effective date of the Final Rule, Combating Auto Retail Scams Trade Regulation Rule, 89 Fed. Reg. 590 (Jan. 4, 2024), be, and hereby is stayed.

By the Commission.

April J. Tabor
Secretary

SEAL:

ISSUED: January 18, 2024

National Automobile Dealers Association v. Federal Trade Commission, No 24-60013 (Mar. 15 2024)

- American automobile dealerships employ more than a million workers and sell more than 40 million new and used vehicles per year
- These dealerships must comply with several overlapping federal and state regulatory regimes that comprehensively regulate dealers' advertising, pricing, financing, disclosures, fees, recordkeeping, and more
- But that was not enough for the Federal Trade Commission, which recently finalized an additional trade regulation rule addressing purportedly unfair and deceptive acts by auto dealers
- The so-called "CARS" Rule adds a new regulatory overlay that will impose significant compliance costs on auto dealers—and confuse and frustrate customers—by injecting new disclosures, paperwork, and recordkeeping requirements into the already lengthy and paperwork-intensive process of purchasing and financing a vehicle



FTC ACTION AGAINST COULTER \$2.6 MILLION

MADE

in the

USA



WILLIAMS-SONOMA

WILLIAMS-SONOMA



FEDERAL TRADE COMMISSION
PROTECTING AMERICA'S CONSUMERS

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For Release

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

Company violated 2020 order by advertising multiple foreign-made products as "Made in USA"

April 26, 2024 [f](#) [x](#) [in](#)

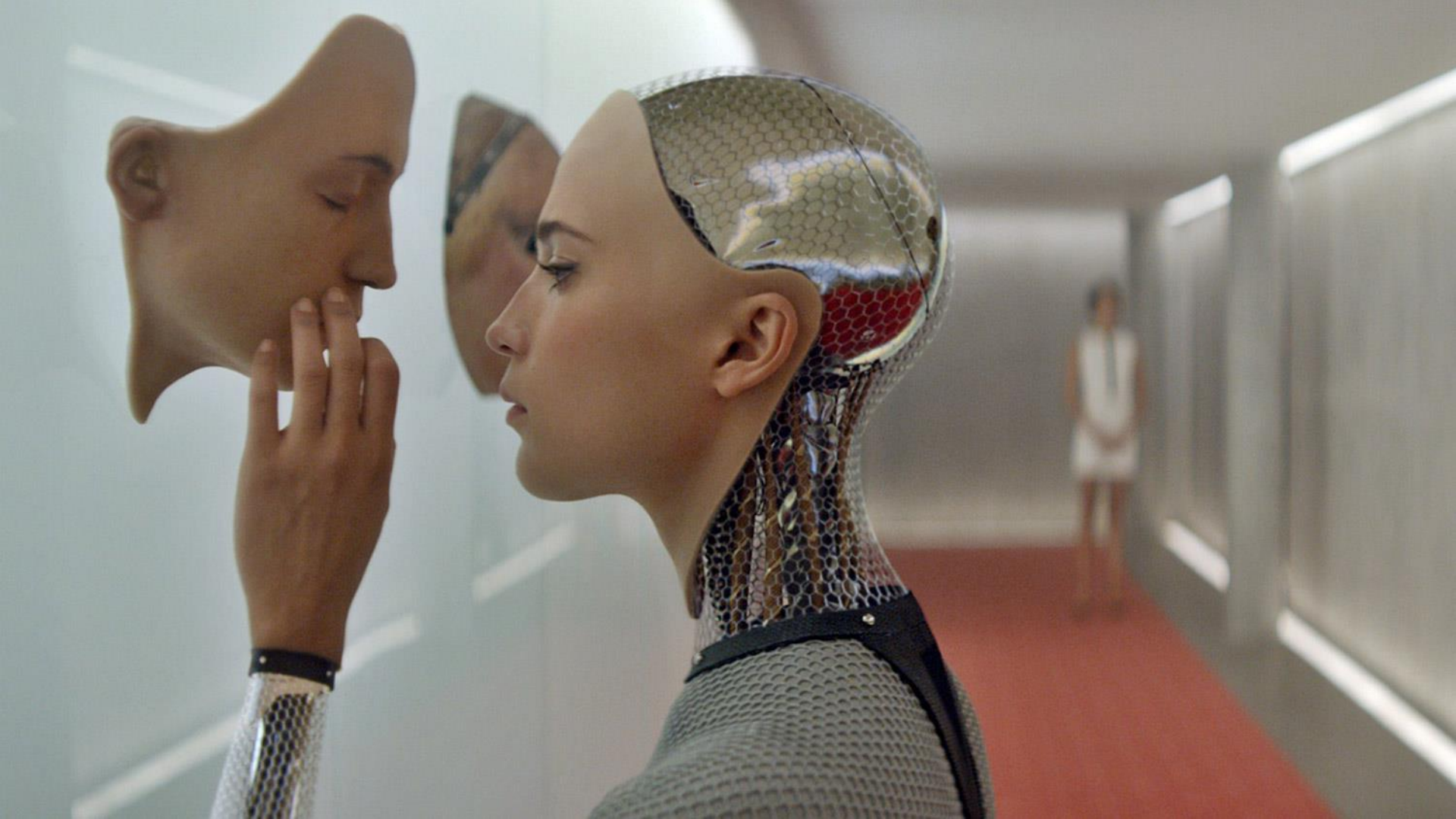
Tags: [Consumer Protection](#) | [Bureau of Consumer Protection](#) | [deceptive/misleading conduct](#) | [Retail](#) | [Merchandise & Clothing](#) | [Advertising and Marketing](#) | [Made in USA](#)

Home products company 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.

In a [complaint](#) filed by the Department of Justice upon notification and referral from the FTC, the agency charges that Williams-Sonoma listed multiple products for sale as being "Made in USA" when in fact they were made in China and other countries. The company [has agreed to a settlement](#) that requires them to pay the civil penalty, which is the largest ever in a Made in USA case.



DELTA 8





THE KING

THIS IS WHAT
"KETCHUP"
LOOKS LIKE TO A.I.

IT HAS TO BE WEINZ



THIS IS WHAT
"KETCHUP"
LOOKS LIKE TO A.I.

IT HAS TO BE WEINZ



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**DEEP FAKE ANCHORS CHURN
OUT PRO-CHINA NEWS**



BEWARE!!

There's a video out there promoting some dental plan with an AI version of me. I have nothing to do with it.

-Tom Hanks



tomhanks  · Follow



Liked by [thelifeofcristinashea](#) and others

September 30, 2023

PUBLIC SERVICE ANNOUNCEMENT FROM TOM HANKS

There are multiple ads over the internet falsely using my name, likeness, and voice promoting miracle cures and wonder drugs. These ads have been created without my consent, fraudulently and through AI. I have nothing to do with these posts or the products and treatments, or the spokespeople touting these cures.

I have type 2 diabetes, and I ONLY work with my board certified doctor regarding my treatment.

DO NOT BE FOOLED.

DO NOT BE SWINDLED.

DO NOT LOSE YOUR HARD EARNED MONEY.

-Tom Hanks



tomhanks · Follow



tomhanks 10w

EXTRA! EXTRA!! READ ALL ABOUT IT!!



Liked by avlm.07 and others

August 31



The Verge 

@verge

DeSantis attack ad uses fake AI images of Trump embracing Fauci

trib.al/bLOYakh



Federal Communications Commission Declaratory Ruling

- Unanimously adopted a Declaratory Ruling recognizing that:
“TCPA’s restrictions on the use of “artificial or prerecorded voice” encompass current AI technologies that generate human voices. As a result, calls that use such technologies fall under the TCPA ... and therefore require the prior express consent of the called party.”
 - “AI technologies such as “voice cloning” fall within the TCPA’s existing prohibition on artificial or prerecorded voice messages because this technology artificially simulates a human voice.”
- “Although voice cloning and other uses of AI on calls are still evolving, we have already seen their use in ways that can uniquely harm consumers and those whose voice is cloned.”
 - “Voice cloning can convince a called party that a trusted person, or someone they care about such as a family member, wants or needs them to take some action that they would not otherwise take.”




A close-up photograph of Joe Biden, wearing a dark blue suit, white shirt, and patterned tie. He is holding a white smartphone to his ear with his right hand and has a serious expression. The background is dark and out of focus.

FAKE BIDEN ROBOCALL TELLS NH DEMOCRATS NOT TO VOTE ON TUESDAY

FAKE AUDIO

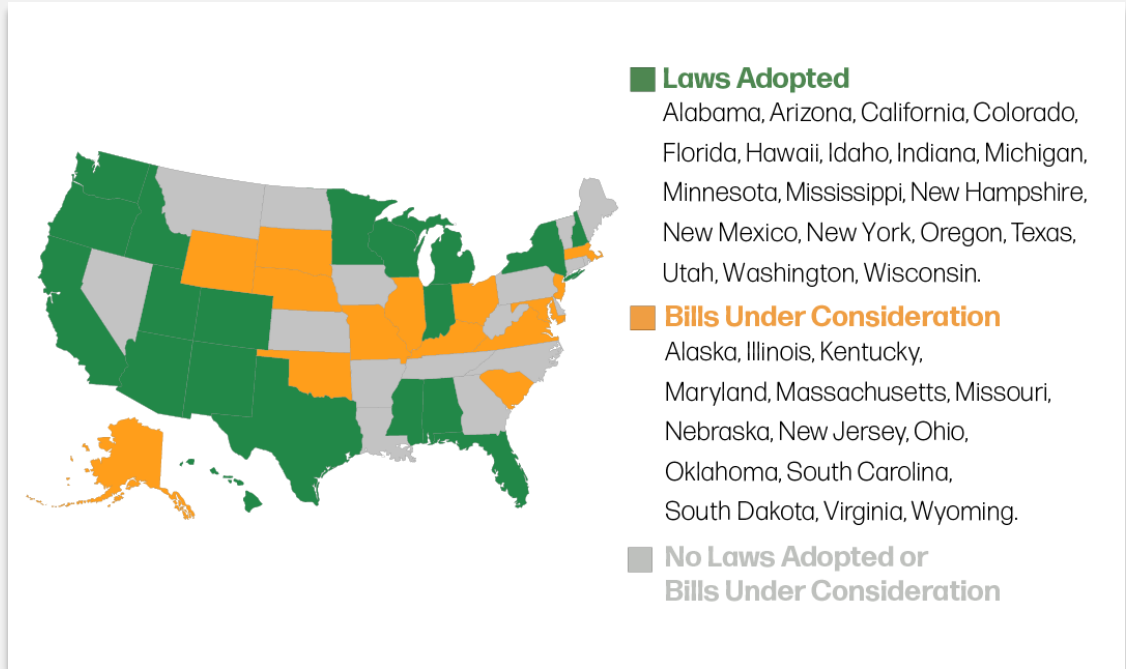
ROBOCALL: We'll need your help in electing Democrats up and down the ticket. Voting this Tuesday only enables the Republicans in their quest to elect Donald Trump again.

A horizontal audio waveform graphic with a blue-to-white gradient, positioned below the text and above the MSNBC logo.

AI in Political Advertising: State Laws

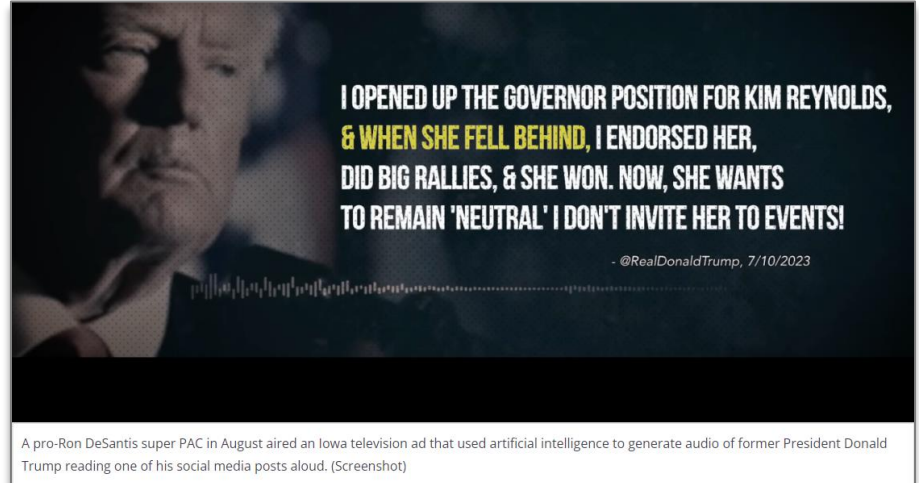
19 states currently have laws governing the use of AI in political advertising

Most are aimed at combatting “**deepfakes**,” especially deepfakes depicting a candidate



AI in Political Advertising: State Laws

- In 16 of the states with laws, the use of AI is permitted with the inclusion of a disclosure
- Penalties for violation can include fines and jail time
- In many states, an individual who is deceptively depicted in an advertisement can bring an action for damages or injunctive relief



“This [video/image/audio/content] generated by AI”.

State Efforts to Legislate Digital Replicas

Tennessee passed the ELVIS Act

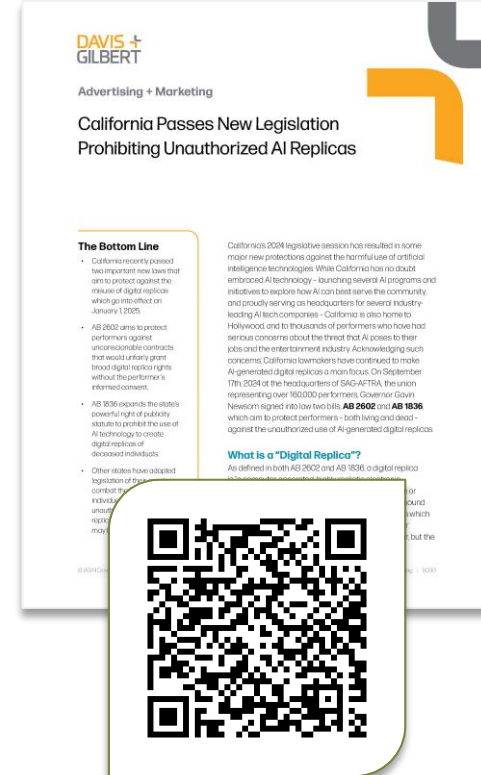
- Became effective July 1, 2024
- Prohibits unauthorized use of AI to mimic artist's voice, photo or likeness
- “Voice” means a sound in a medium that is readily identifiable and attributable to a particular individual, regardless of whether the sound contains the actual voice or a simulation of the voice of the individual



State Efforts to Legislate Digital Replicas

California passed AB 1836, effective Jan. 1, 2025

- Amends Section 3344.1 of the California Civil Code
- Extends post-mortem rights of publicity to prohibit unauthorized use of a digital replica of a deceased personality
- Will be unlawful to produce, distribute, or otherwise make available a digital replica of a deceased personality's voice or likeness in an audiovisual work or sound recording without prior consent (with certain exceptions for works of entertainment or commentary)
- Violations carry a penalty of the greater of \$10,000 or the actual damages suffered by the entity controlling the deceased personality's likeness



DAVIS + GILBERT
Advertising + Marketing


California Passes New Legislation Prohibiting Unauthorized AI Replicas

The Bottom Line

- California recently passed two important new laws that aim to protect against the misuse of digital replicas which go into effect on January 1, 2025.
- AB 2602 aims to protect performers against unauthorized contracts that would strip their broad digital replica rights without the performer's informed consent.
- AB 1836 expands the state's power/ right of publicity statute to protect the use of AI technology to create digital replicas of deceased individuals.
- Other states have adopted legislation to protect similar rights, but California is the first to explicitly prohibit the unauthorized use of AI-generated digital replicas.

California's 2024 legislative session has resulted in some major new protections against the harmful use of artificial intelligence technologies. While California has no doubt embraced AI technology – launching several AI programs and initiatives to explore how AI can best serve the community and proudly serving as headquarters for several industry-leading AI tech companies – California is also home to Hollywood, and to thousands of performers who have had serious concerns about the threat that AI poses to their jobs and the entertainment industry. Acknowledging such concerns, California lawmakers have continued to make AI-generated digital replicas a main focus. On September 17th, 2024 at the headquarters of SAG-AFTRA, the union representing over 160,000 performers, Governor Newsom signed two new bills, **AB 2602** and **AB 1836**, which aim to protect performers – both living and dead – against the unauthorized use of AI-generated digital replicas.

What is a "Digital Replica"?
As defined in both AB 2602 and AB 1836, a digital replica is...



Right of Publicity and Generative AI

U.S. Congress is considering the “NO FAKES Act”, which would create a federal law prohibiting the unauthorized digital replication of individuals:

The draft legislation would:

- Hold individuals or companies liable if they produce an unauthorized digital replica of an individual in a performance
- Hold platforms liable for hosting an unauthorized digital replica if the platform has actual knowledge of the fact that the replica was not authorized by the individual depicted
- Exclude certain digital replicas from coverage based on recognized First Amendment protections
- Largely preempt state laws addressing digital replicas to create a workable national standard



SAG-AFTRA
NEGOTIATING
COMMITTEE

SAG-AFTRA
ON
STRIKE!

SAG-AFTRA
ON STRIKE!

WRITERS GUILD
ON STRIKE!
30 DAYS

SAG-AFTRA
ON
STRIKE!

AI is Not
ART

SAG-AFTRA
STRONG

MARIANNE
WILLIAMSON
FOR PRESIDENT

WRITERS GUILD
ON STRIKE!

I ❤️
DCI

I STAND WITH
THE WGA

SAG-AFTRA
ON STRIKE!

UNION
WRITERS GUILD

SAG Support for Legislating Digital Replicas

“SAG-AFTRA applauds Gov. Newsom

- AB 1836 and AB 2602 represent much-needed legislation prioritizing the rights of individuals in the A.I. age
- No one should live in fear of becoming someone else’s unpaid digital puppet
- Gov. Newsom has led the way in protecting people - and families - from A.I. replication without real consent”

AB 2602

First-of-its-kind law prohibits contractual provisions that would allow for the use of a digital replica of an individual’s voice or likeness in place of the individual’s actual services, **unless** the provision includes a reasonably specific description of the intended uses of the digital replica and the individual was represented by legal counsel or a labor union

AB 1836

Updates current right of publicity law to prohibit the use of a deceased person’s voice or likeness in digital replicas without the prior consent of their estate; removes existing exemptions for film, TV, audiovisual works and more when it comes to digital replication

FTC Operation AI Comply (Sept. 2024) – Targets

DoNotPay, Inc.: Claimed to offer an AI service that was “the world’s first robot lawyer” – including promises that it would allow consumers to “generate perfectly valid legal documents in no time” – but product failed to live up to these claims. Settlement with FTC included \$193,000 payment

Ascend Ecom; Ecommerce Empire Builders; FBA Machine: All three companies purported to offer AI-powered e-commerce services that would provide online storefronts and “guaranteed” profits to would-be entrepreneurs seeking passive income, defrauding consumers out of millions of dollars. All cases currently pending in federal court

Rytr, Inc.: Offers AI-powered writing assistant service that allows consumers to generate product reviews based on limited and generic input. Alleged to violate the FTC Act by providing subscribers with the means to generate false and deceptive written content for consumer reviews

AI Legislation

- Many states are paying attention to the various risks that AI poses
- In the last year, at least 200 bills across dozens of states have been proposed to regulate various aspects of generative AI

“Backdoors” to AI Regulation

CCPA – Could apply to automated decision making
FTC Act and State Consumer Protection Acts – Unfair or deceptive acts

Utah: Artificial Intelligence Policy Act

Effective: May 1, 2024

Imposes disclosure obligations on entities and professionals using AI systems

Colorado: Artificial Intelligence Act (*modeled on EU AI Act*)

Effective: Feb. 1, 2026

Requires AI developers & users of high-risk AI systems to ensure their AI tools cannot be used to make consequential decisions about people based on their protected class (i.e.: **avoid algorithmic discrimination**)

DC’s Stop Discrimination by Algorithms Act of 2023

Prohibits the use of biased algorithms and using algorithmic eligibility determinations in a discriminatory manner

California SB 942

Requires AI providers to incorporate invisible watermarks in AI-generated content for better transparency

Notable New Privacy Laws

Maryland

Online Data Privacy Act of 2024

- **Prohibition on selling Sensitive Data**

- Broad definition of “sell”

- Standard definition of Sensitive Data

- **Data minimization**

“A controller shall limit the collection of personal data to what is reasonably necessary and proportionate to provide or maintain a specific product or service requested by the consumer to whom the data pertains” 14-4607(B)(1)

- Effective – October 1, 2025

Colorado Privacy Act

- First state to enact a “**neural privacy**” law by expanding definition of “sensitive data”: now includes biological data generally and “**neural data**” specifically

- *“Information that concerns the activity of an individual's central ... or peripheral nervous systems, including the brain and spinal cord, and that can be processed by or with the assistance of a device.”*

- In short, brain activity cannot be collected or processed without explicit consent

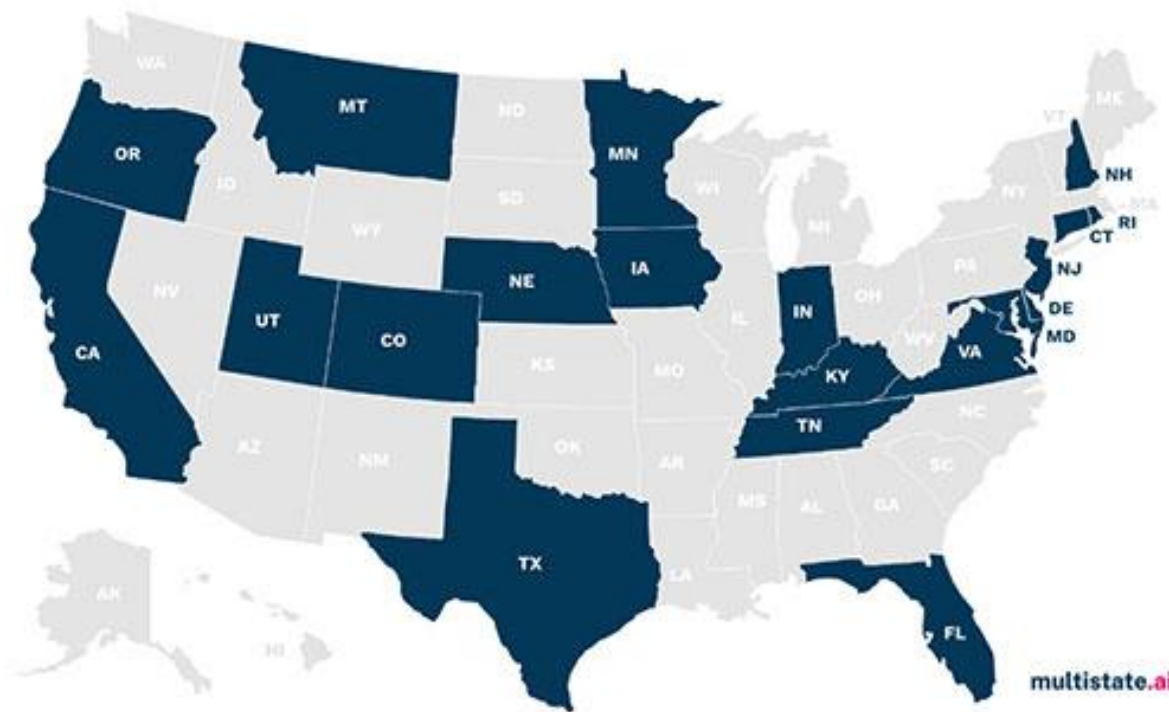
- Effective – August 6, 2024

Comprehensive Data Privacy Laws

Enacted comprehensive
Data privacy law

Source: MultiState.
Data as of June 3, 2024.

Currently, 20 states have enacted
comprehensive data privacy laws.



Senate Passes COPPA 2.0 and KOSA

COPPA 2.0

- Prohibits companies from collecting personal information from users who are 13 to 16 without their consent
- Bans targeted advertising to children and teens
- Revise COPPA’s “actual knowledge” standard, covering platforms that are “reasonably likely to be used” by children
- Establish a “Digital Marketing Bill of Rights for Teens” that limits the collection of personal information of teens

Kids Online Safety Act

- Provides children and parents with the tools, safeguards and transparency to protect against online harms
- Establishes a “duty of care” for online platforms
- Requires companies to activate the most protective settings for kids by default, providing minors with options to protect their information, disable addictive product features and opt-out of personalized algorithmic recommendations

FTC Enforcement – Sensitive Consumer Data

- **X-Mode (January 2024):** *“Geolocation data can reveal not just where a person lives and whom they spend time with but also, for example, which medical treatments they seek and where they worship. The FTC’s action against X-Mode makes clear that businesses do not have free license to market and sell Americans’ sensitive location data,”* said **FTC Chair Lina M. Khan**. *“By securing a first-ever ban on the use and sale of sensitive location data, the FTC is continuing its critical work to protect Americans from intrusive data brokers and unchecked corporate surveillance.”*
- **InMarket (January 2024):** Location data
- **Avast (February 2024):** Data sold in violation of disclosures
- **FTC blog post (March 2024):** *“**Browsing and location data are sensitive. Full stop.**”*





Louisa Sullivan

3 days ago



"Amazing coffee at the cozy café! The baristas were passionate about their craft, and the place was perfect to relax and enjoy a cup of Joe."



Bobby Henderson

3 days ago



"Great quality and value! The T-shirts I bought from this brand are soft, durable, and affordable. They are now my go-to basics for everyday wear."



Terry Mendez



Jasmine Barnett

2 minutes ago



"Love these sunglasses! Stylish and provide excellent sun protection. A perfect accessory for any outfit."

"I had a fantastic time at the museum. The interactive exhibits made learning fun, and the staff's passion for sharing information was evident. It's a perfect place for a family outing."



Reviews

4.8

How Important Are Customer Reviews?



See how customer reviews influence purchasing decisions and find out ways you can encourage more customers to leave reviews.

Faith In Strangers

90%

of consumers trust recommendations from people they know



89%

of consumers trust customer reviews made by strangers online



87%

of consumers are influenced by positive reviews



Consumers trust customer reviews

12x

more than manufacturers' descriptions



RATE
our experience

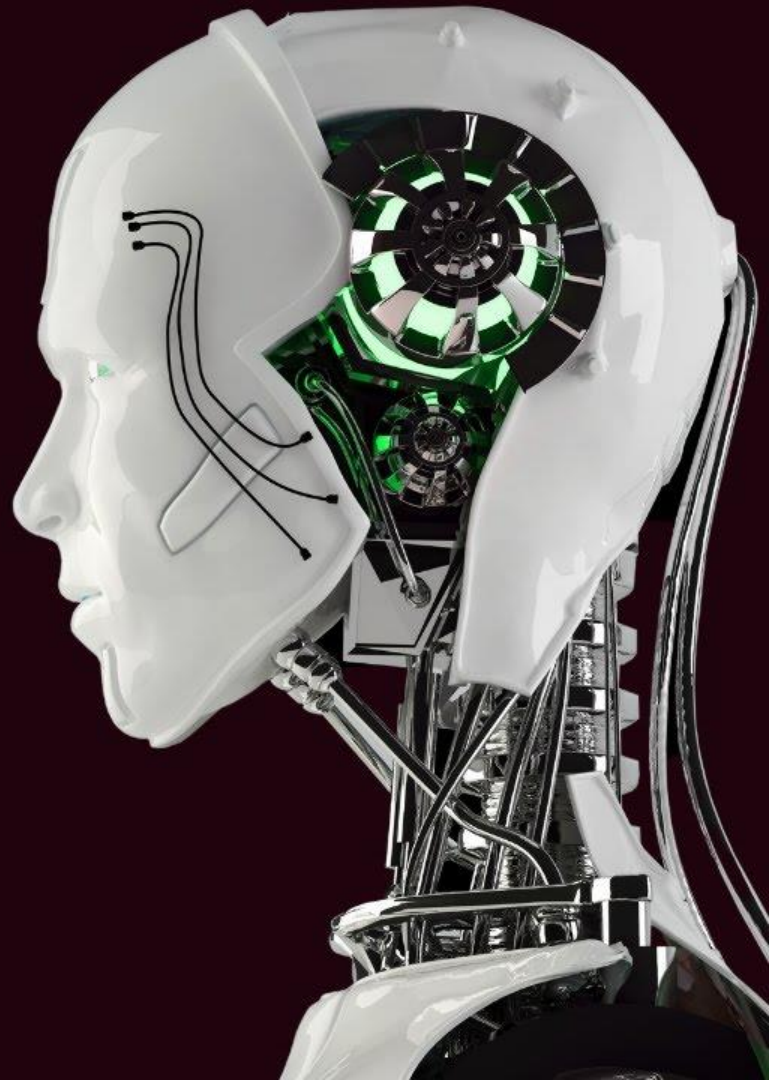
Submit



**HOW TO
WRITE PRODUCT**

REVIEW

USING AI



FAKE *Reviews*



Fake reviews not only waste people's time and money, but also pollute the marketplace and divert business away from honest competitors.

~ FTC Chair Lina M. Khan

FTC Rule Banning Fake Reviews and Testimonials

Prohibits a range of practices, including

- **Buying Positive or Negative Reviews:**

- The final rule prohibits businesses from providing compensation or other incentives conditioned on the writing of consumer reviews expressing a particular sentiment, either positive or negative
- The conditional nature of the offer of compensation or incentive may be expressly or implicitly conveyed

Example: *“We will credit you \$100 on a future stay if you give us a positive review!”*



FTC Rule Banning Fake Reviews and Testimonials

Prohibits a range of practices, including

- **Fake or False Consumer Reviews and Testimonials:**

- The final rule addresses reviews and testimonials that misrepresent that they are by someone who does not exist, such as AI-generated fake reviews, or who did not have actual experience with the business or its products or services, or that misrepresent the experience of the person giving it
- Prohibits businesses from creating or selling such reviews or testimonials
- Prohibits businesses from buying such reviews, procuring them from company insiders, or disseminating such testimonials, when the business knew or should have known that the reviews or testimonials were fake or false

Example:

“Your daughter can even write a review too— even though she didn’t come on this trip!”

FTC Rule Banning Fake Reviews and Testimonials

Prohibits a range of practices, including

- **Insider Reviews and Consumer Testimonials:**

- The final rule prohibits certain reviews and testimonials written by company insiders that fail to clearly and conspicuously disclose the giver's material connection to the business
- Prohibits such reviews and testimonials given by officers or managers
- Prohibits a business from disseminating such a testimonial that the business should have known was by an officer, manager, employee, or agent
- Imposes requirements when officers or managers solicit consumer reviews from their own immediate relatives or from employees or agents – or when they tell employees or agents to solicit reviews from relatives and such solicitations result in reviews by immediate relatives of the employees or agents

Example:
All five-star reviews were written by the hotel staff members

FTC Rule Banning Fake Reviews and Testimonials

Prohibits a range of practices, including:

- **Company-Controlled Review Websites:**

- The final rule prohibits a business from deceptively misrepresenting that a website or entity it controls provides *independent reviews* or opinions about a category of products or services that includes its own products or services

Example: *Travel website says it provides independent reviews of vacation destinations, and rates this resort at #1 – but the travel website is in fact owned by the resort*

FTC Rule Banning Fake Reviews and Testimonials

Prohibits a range of practices, including:

- **Review Suppression:**

- The final rule prohibits a business from using unfounded or groundless legal threats, physical threats, intimidation, or certain false public accusations to prevent or remove a negative consumer review
- The final rule also bars a business from misrepresenting that the reviews on a review portion of its website represent all or most of the reviews submitted when reviews have been suppressed based upon their ratings or negative sentiment

Example: *Hide or remove negative reviews so they are not visible*

(In 2023, FTC reached a \$4.2 million settlement with Fashion Nova for only posting four- and five-star reviews)

FTC Rule Banning Fake Reviews and Testimonials

Prohibits a range of practices, including

- **Misuse of Fake Social Media Indicators:**

- The final rule prohibits anyone from selling or buying fake indicators of social media influence, such as followers or views generated by a bot or hijacked account
- This prohibition is limited to situations in which the buyer knew or should have known that the indicators were fake and misrepresent the buyer's influence or importance for a commercial purpose

Example: *Companies cannot sell “like” impression numbers or “follower” counts that would allow an influencer to misrepresent the scale of their reach*

2023 Updates to FTC Endorsement Guides

Endorser

An “endorser” is not only an individual, group, or institution, but also any entity that appears to be one, such as a virtual influencer

Clear and Conspicuous

Heightened standard means the disclosure must be difficult to miss and be easily understandable by ordinary consumers



Social and online disclosures must be unavoidable

- If an endorsement is made **visually**, disclosure should be made **visually**
- If an endorsement is made in **audio**, disclosure should be made in **audio**
- If an endorsement is made in **both**, disclosure should be made in **both visual and audio**

Blue Ice Vodka (Sava v. 21st Century Spirits, LLC)

- Influencers represented that Blue Ice is “handcrafted,” has between 52 and 57 calories per ounce, and is “fit-friendly” in that it helps with personal fitness and weight management
- Believing that consumers would be less willing to purchase if they knew that the Influencers were paid to promote it, company did not want influencers to disclose their material connection to Blue Ice
- Company argued on a motion to dismiss that failure to satisfy FTC’s endorsement guidelines is not inherently unlawful or misleading because such guidelines are “not law” but merely “advisory in nature”
- Court was not persuaded, noting that courts are expected to consider FTC guidance when interpreting federal and state unfair competition and consumer deception laws