

The Ad Standard: Monthly Update

June 2025

Businesses curious about what to expect in FTC enforcement under the current administration can look to its recent activity. Yesterday, the FTC held a day-long workshop on “The Attention Economy” that highlighted its interest in protecting children and teens online. The past month’s FTC activity reveals other key priorities of the FTC, including a focus on hidden fees, subscriptions that are difficult to cancel, as well as unfair and deceptive practices in pitching business opportunities or debt relief. Notably, the same week that the FTC’s Rule on Unfair or Deceptive Fees took effect, the FTC sent a warning letter to StubHub alleging that they misrepresented the price of tickets by hiding fees covered by the new rule.

The FTC’s focus on privacy was also evident in its filing of a brief in support of the Department of Justice (DOJ) in its action against Google. The brief noted that privacy protections sought in the DOJ’s action are consistent with its own orders. Additionally, the FTC entered into a recent settlement agreement over allegations that the failure to implement promised data security protections harmed consumers.

Class actions litigation alleging false advertising continue to be common, but influencer marketing is a focus of recent case filings. In the last several months, at least four class actions have been filed alleging that consumers were harmed when influencers promoted products without disclosing their material connection to the brand.

At the National Advertising Division (NAD) of BBB National Programs, cases resolved this month show that not just the class action bar, but NAD and competitors are concerned about influencer marketing, as NAD resolved both a challenge and monitoring case related to transparency around endorsements. Similarly, health-related claims about the efficacy of supplements and oral care products were reviewed by NAD in both a monitoring and competitor challenge.

Serving as a reminder that many NAD challenges resolve disputes quickly, of the ten case decisions NAD has released in May, half of the cases resolved without a decision on the merits because the advertiser elected to discontinue the claims voluntarily.

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FTC Focus

Deceptive Fees

1. The FTC Rule on Unfair or Deceptive Fees took effect on May 12, 2025. The rule requires companies to disclose upfront the full price of a product or service including fees, with some narrow exceptions for anticipated fees like shipping.

[FTC Rule on Unfair or Deceptive Fees to Take Effect on May 12, 2025 | Federal Trade Commission](#)

2. The FTC also sent a warning letter to StubHub that it continued to misrepresent the total price of tickets displayed for sale, including fulfillment and service fees, further noting that the newly released NFL schedule, and the possibility for civil penalties if upcoming NFL ticket sales do not comply with the rule.

[With NFL's 2025 Schedule Set to be Announced, FTC Warns Ticket Reseller StubHub it Must Comply with Agency's New Rule on Unfair and Deceptive Fees | Federal Trade Commission](#)

Subscriptions

FTC Negative Option Rule:

While there was some speculation that the FTC would rethink this rule in the new administration, this month it only delayed enforcement for 60 days until July 14, 2025 to give companies time to comply with the complex changes the rule requires. The statement released when extending the deadline, however, noted that the Commission is open to amending the rule “if enforcement experience exposes problems.” The Negative Option Rule not only requires companies to make it easy for consumers to cancel any subscription plan, it also states that it is violation of law if a company fails to clearly and conspicuously disclose all material terms of a subscription transaction at sign up. Additionally, it also requires companies to obtain express informed consent to any negative option feature.

[FTC Votes on Negative Option Rule Deadline | Federal Trade Commission](#)

FTC Actions Related to Subscription Cancellations:

The FTC settled with Cerebral, Inc., an online mental health service provider, that allegedly billed consumers despite their requests to cancel their subscriptions and allegations that its difficult, multi-step process to cancel subscriptions harmed consumers.

[More than \\$5 Million in Refunds Sent to Consumers as a Result of the FTC's Action Against Cerebral over Deceptive Cancellation Practices | Federal Trade Commission](#)

The recent activity is particularly notable as the FTC sued Uber at the end of April alleging it charged consumers for its Uber One subscription service without their consent, failed to deliver promised savings, and made it difficult for users to cancel the service despite its “cancel anytime” promises.

[FTC Takes Action Against Uber for Deceptive Billing and Cancellation Practices | Federal Trade Commission](#)

Fraudulent Business Opportunities

1. FTC settled with Ecommerce Empire Builders (EEB) in an action related to a business opportunity scam that used false promises of large profits to entice consumers into paying for help starting “Ecommerce empires” through online storefronts. EEB and its owner agreed to a ban on selling business opportunities and to turn over assets to be used to refund consumers.

[FTC Action Ends Ecommerce Empire Builders Online Business Opportunity Scam | Federal Trade Commission](#)

2. FTC, together with the state of Nevada, brought suit over allegedly false or baseless earning claims to entice consumers to purchase training on financial topics.

[FTC, State of Nevada Take Action Against IM Mastery Academy for Deceiving Consumers | Federal Trade Commission](#)

3. FTC added two defendants to its recent suit to halt the operations of a business opportunity and credit repair scam operating under the name “Growth Cave” alleging that the company defrauded consumers with promises of huge income from starting a business.

[FTC Adds Defendants in Case Against Growth Cave Scam | Federal Trade Commission](#)

[FTC Takes Action to Stop Sprawling ‘Growth Cave’ Business Opportunity and Credit Repair Scam | Federal Trade Commission](#)

These two actions are consistent with several settlements and lawsuits earlier this year alleging fraud in promoting business or career opportunities.

[FTC Suit Against E-Commerce Business Opportunity Scam Leads to Permanent Bans for Operators | Federal Trade Commission](#)

[FTC Acts to Stop ‘Click Profit’ Online Business Opportunity that Has Cost Consumers At Least \\$14 Million | Federal Trade Commission](#)

[FTC Sends More Than \\$15.5 Million in Refunds to Consumers Affected by Career Step’s Deceptive Job Placement and Employer Partnerships Claims | Federal Trade Commission](#)

Debt Collection

1. FTC banned operators who allegedly pretended to be affiliated with the U.S. Department of Education and promised student loan forgiveness to consumers seeking debt relief.

[Student Loan Fraudsters Permanently Banned From Debt Relief Industry And Required to Turn Over All Assets as Result of FTC Action | Federal Trade Commission](#)

2. FTC settled with Global Circulation, Inc. (GCI) and its owner who the FTC alleged threatened consumers with jail time, lawsuits, and wage garnishments to pressure them into paying debt they didn’t actually owe.

[FTC to Ban Debt Collector Who Allegedly Coerced Consumers into Paying Debt They Didn’t Owe | Federal Trade Commission](#)

Privacy

1. In an action in which the Court found Google liable for maintaining monopolies in general search services and search text ads, the FTC submitted a brief as amicus curiae to support the DOJ's position and emphasized that the privacy protections sought by the DOJ are consistent with its own orders. The FTC expressed that the remedy sought by the DOJ related to data-sharing requirements, coupled with independent oversight, are well-designed to restore competition and improve privacy protections for consumers.

[FTC Files Amicus Brief on DOJ's Proposed Final Judgment Against Google for Antitrust Violations | Federal Trade Commission](#)

2. The FTC settled with GoDaddy over allegations that the webhosting provider misled consumers by failing to implement promised data security protections after several data breaches. The order prohibits further misrepresentations about data security, requires GoDaddy to implement a comprehensive information-security program, and hire an independent assessor. The settlement, however, does not have a monetary component.

[FTC Finalizes Order with GoDaddy over Data Security Failures | Federal Trade Commission](#)

The FTC also dismissed its case against Pepsi for engaging in alleged price discrimination by giving discounts or side payments to favored customers contending it was based on a "hunch that Pepsi violated the law."

[FTC Dismisses Lawsuit Against PepsiCo | Federal Trade Commission](#)

Class Actions

In at least four actions this year, a class of plaintiffs alleged that they were misled when influencers failed to clearly and conspicuously disclose their material connections to brands they were promoting. The complaints allege that the influencers were paid to endorse products causing consumers to purchase the products and pay more for the promoted products than they would have if they had known the products were being advertised to them. The complaints also cite to FTC guidance on influencer marketing, alleging the failure to comply with guidance is a failure to comply with the FTC Act as interpreted by the FTC. Certain influencer posts that were the subject of the litigation contain disclosures such as #ad, but it is alleged the disclosures, which were only visible when a user clicked "more," are not sufficiently clear and conspicuous to be noticed and understood by consumers.

Notably, in one action, the complaint cites to the company's annual financial report to argue that the company was aware it was violating the law when its financial reports explained that its influencer marketing practices could expose it to risk of investigation by the FTC or be the subject of class action litigation.

- *Dubreu v. Celsius Holdings, Inc.*, No. 5:25-cv-00180 (C.D. Cal., Jan. 22, 2025)
- *Bengoechea v. Shein*, No. 1:25-cv-01402 (N.D. Ill., Feb. 10, 2025)
- *Negreanu v. Revolve Group, Inc.* N. 2:25-cv-3186 (C.D. Cal. Apr. 11, 2025)
- *Sulici v. Color Image Apparel d/b/a Alo Yoga*, No. 1:25CV03928 (N.D. Ill., E. Div. April 11, 2025)

NAD Focus

Influencer Marketing and Endorsements

NAD recommended that a beauty products company make a good faith attempt to request that its influencer take down a TikTok video comparing the ease of removing a holding spray made by competitor, Charlotte Tilbury. NAD noted that the FTC Guides Concerning Use of Endorsements and Testimonials in Advertising require advertisers to ask influencers who receive free products to clearly and conspicuously disclose the material connection in any endorsements and NAD noted that Huda Beauty should monitor these disclosures and ensure that influencers do not make deceptive claims about their products.

HB USA Holdings, Inc. (Huda Beauty Easy Bake Setting Spray), Report #7453, *NAD/CARU Case Reports* (May 2025)

In analyzing whether the claim “It’s a better mouthwash. I guarantee it” would be understood as a self-laudatory statement of opinion that would be considered puffery or an objective comparative claim, NAD concluded that if Dr. Katz’s status as the founder of TheraBreath were properly disclosed, the claim would be puffery. NAD recommended that the claim “It’s a better mouthwash. I guarantee it.” be modified to include a clear and conspicuous disclosure of Dr. Katz’s relationship with TheraBreath.

Health Claims

Dietary Supplement Muscle Strength Claims:

NAD concluded that there was a reasonable basis for certain health-related claims that Urolithin A positively impacts mitochondrial gene sets and is bioavailable at the dose found in the advertised product, Mitopure, and that the product is clinically proven to trigger a crucial recycling process within our cells called mitophagy, preventing age-related cellular decline. NAD recommended removing a reference to the product being the “first” because the studies provided did not conclusively show that UA is the first nutrient to trigger mitophagy in humans.

NAD recommended modifications to claims that the product increases muscle strength by up to “21% in 16 weeks” to specify that the claim is limited to strength increases in the hamstring muscle in obese, sedentary middle-aged adults and that the advertising context should avoid conveying that the results apply to all body types. NAD recommended discontinuing additional claims that muscle endurance increases by up to 15% after 8 weeks because the study provided as support for the claim assessed a dose twice the recommended dose of Mitopure.

Amazentis SA (Mitopure Cellular Nutrition), Report #7234, *NAD/CARU Case Reports* (April 2025)

Oral Care Remineralization, Whitening, and Prebiotic Claims:

NAD found that studies submitted to support remineralization claims were primarily in vitro and in situ, and not reliable indicators of real-world performance. NAD found that studies provided to support whitening claims,

including in vitro studies and a meta-review, were also insufficient to support the whitening claims without confirmatory in vivo studies. NAD recommended the remineralization and whitening claims be discontinued.

As to prebiotic claims, the studies submitted did not test the mouthwash directly or establish a connection between the tested bacteria and fresher breath. Additionally, the bacteria species tested, NAD concluded, might not be representative of the oral microbiome. As a result, NAD recommended that the claim that the “mouthwash has prebiotics to maintain a healthy microbiome (that’s science speak for preserving the good bacteria) so you can have fresher breath” be discontinued.

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