Marketing Compliance and Enforcement Actions Quarterly Review Q3 2024

This report is crafted for compliance professionals who need to stay on top of the latest regulatory developments and trends in marketing compliance and consumer protection. Backed by PerformLine's in-depth analysis and industry-leading compliance monitoring, this review provides actionable insights to help your organization navigate the ever-evolving regulatory landscape with confidence.

Why it matters:

Consumer protection
The report highlights key enforcement actions, regulatory updates, and the most pressing compliance challenges facing the industry, helping you safeguard your business and protect consumers from regulatory risk.

Regulatory focus
Understand where regulators are concentrating their efforts on marketing practices and consumer protection so you can proactively adjust your strategies to meet current expectations and avoid compliance pitfalls.

Industry benchmarks
Gain valuable insights into marketing compliance trends and consumer protection standards, helping you assess your organization's performance relative to industry norms and maintain a competitive edge.

Enforcement Actions at a Glance

23
Enforcement Actions*

$287M
In Monetary Fines

$120M
Highest Single Enforcement Action Fine

43%
Enforcements Taken by State Regulators

*Note: These numbers only include enforcement actions that have been finalized. There are still several complaints, consent orders, and other actions that are pending.

In Q3 of 2024, federal and state regulators finalized **23 enforcement actions** related to marketing compliance and consumer protection, totaling over **$287 million** in monetary fines.

The highest single enforcement action was **$120 million**, taken by the Consumer Financial Protection Bureau (CFPB) for UDAAP, FCRA, and FDCPA violations.

Almost half **(43%)** of all finalized enforcement actions came from state regulatory agencies, specifically Minnesota, New Jersey, Pennsylvania, and Washington.

Notable Enforcement Actions, Consent and Settlement Orders, and Complaints

Note: These notable actions include some that are still awaiting final orders.

Key Themes

- Misleading and deceptive advertising around loan terms or offers
- Targeting vulnerable consumer groups, like servicemembers and veterans
- Failure to disclose key information about the true cost of products or services

Loan servicer banned from federal student loan activities for years of misleading and abusing consumers

Regulatory Agency:	Consumer Financial Protection Bureau (CFPB)
Total Penalty Amount:	$120M
Regulatory Issue(s):	UDAAP, FCRA, FDCPA

Summary: The CFPB took action against a student loan servicer for steering borrowers into costly repayment options, depriving them of opportunities to enroll in more affordable repayment options, and forcing them to pay more than they should have.

Specifically, the servicer:

- Misled borrowers about income-driven repayment plans
- Misallocated payments that led to late fees, interest accrual, and negative credit reporting
- Harmed the credit of disabled borrowers
- Deceived borrowers about requirements for cosigner release
- Misled borrowers about improving credit scores and the consequences of federal student loan rehabilitation

Enforcement Action

If entered by the court, this action:

- Bans the company from most federal student loan activities
- Requires the company to take steps to ensure borrower's rights are protected
- Imposes a $120 million fine

Non-bank mortgage lender deceived veterans and military families with misleading refinance loan ads

Regulatory Agency:	Consumer Financial Protection Bureau (CFPB)
Total Penalty Amount:	$2.25M
Regulatory Issue(s):	UDAAP

Summary: The CFPB took action against a mortgage company for misleading veterans and military families into costly mortgage refinancing.

The company used deceptive marketing practices, including misleading direct mail ads that falsely implied an affiliation with the U.S. government. The company also falsely advertised favorable loan terms without proper disclosures regarding the actual costs and risks of the refinance loans, which led veterans to enter into unfavorable financial deals.

Enforcement Action

The CFPB's order requires the company to:

- Pay a $2.25 million fine
- Stop misrepresenting loan costs to borrowers

Healthcare career-training company targeted military servicemembers with false promises

Regulatory Agency:	Federal Trade Commission (FTC)
Total Penalty Amount:	$43.5M
Regulatory Issue(s):	Deceptive Advertising, Misleading Employment Claims

Summary: The FTC took action against a healthcare education provider for using deceptive advertising tactics to mislead students about their employment prospects after completing its programs.

The company falsely claimed that students would easily secure high-paying jobs in the healthcare industry, despite evidence showing that their program graduates often struggled to find employment. The company also failed to disclose important information about the actual job placement rates and the challenges students faced in repaying their loans.

Enforcement Action

While still awaiting approval by a federal judge, the FTC's order requires the company to:

- Pay $15.7 million in consumer redress
- Cancel $27.8 million in debts owed by former students
- Stop deceptively advertising any educational product or service
- Notify each third-party platform or website displaying a review written by a consumer to whom the company provided free services in exchange for the review about the FTC's action against the company

Company failed to implement security measures for consumer privacy and violated CAN-SPAM Act

Regulatory Agency:	Federal Trade Commission (FTC)
Total Penalty Amount:	$2.9M
Regulatory Issue(s):	CAN-SPAM, Data Security

Summary: The FTC took action against a company for failing to implement proper information security measures to protect consumers' information, even though they claimed to use "best-in-class data security tools and best practices." The company was also charged with purposely failing to disclose the employment or association of employees and investors who posted positive reviews of its products.

The company also violated the CAN-SPAM Act by sending over 30 million commercial emails within 3 years without including an option to unsubscribe, failing to honor opt-out requests, and neglecting to provide a physical postal address in the emails. **This action is the largest monetary penalty ever obtained by the FTC for CAN-SPAM violations.**

Enforcement Action

While still ongoing, the FTC is seeking to have the company:

- Pay a penalty of $2.95 million
- Stop making misrepresentations about their privacy and data security practice
- Implement a comprehensive information security program with third-party audits

Lender misled consumers about “interest-free” loans

Regulatory Agency:	Pennsylvania Office of Attorney General
Total Penalty Amount:	$110k
Regulatory Issue(s):	Unfair and Deceptive Practices

Summary: The Pennsylvania Office of the Attorney General took action against a lender over allegations of engaging in an illegal "tip" and "donation" scheme. The lender disguised additional fees as optional tips or charitable donations in its loan agreements, misleading consumers about the true cost of their loans. These deceptive practices violated Pennsylvania's consumer protection laws and led borrowers to unknowingly pay higher amounts on their loans.

Enforcement Action

Under the settlement, the lender is required to:

- Pay $110,000 in restitution to affected consumers
- Discontinue its illegal "tip" and "donation" practices
- Implement clear and transparent loan agreements moving forward

Recent Regulatory Updates

Key areas of focus

- Oversight of partners' and third parties' marketing
- Deceptive practices and misleading advertising
- Data privacy and protection in marketing

CFPB Supervisory Highlights find several UDAAP and other issues across loan servicing and collection of debt

The CFPB's findings highlight significant issues affecting marketing compliance in the financial sector:

Inaccurate information and failure to notify consumers

Many financial institutions have been found to misrepresent loan terms and conditions in their communications, leading to inaccurate information being provided to consumers. This includes information about certain benefits, such as forbearance.

Deceptive practices and harassment

The report uncovered that some debt collectors engage in deceptive marketing practices, such as making false claims about debts or employing aggressive tactics. Some collectors hid their true company names in communications and misled consumers about their identity.

Oversight of third parties promoting payment products

There are several problems with medical payment products including misleading marketing and unclear terms, which can deceive consumers about the cost and conditions of medical debt. The Bureau identified a significant number of consumer complaints regarding how healthcare providers promoted, offered, and sold medical credit cards to consumers.

"CFPB examiners will continue to assess financial services companies' oversight of medical providers and will be monitoring marketing materials and incentives offered to enroll patients."
– Consumer Financial Protection Bureau

Supreme Court decisions could significantly impact marketing regulation and compliance

Various Supreme Court cases could reshape the regulatory landscape for marketing. Key areas include:

Online Privacy

One key area of focus is the regulation of how companies collect and use personal data. The Supreme Court is considering cases that could lead to stricter privacy protections for consumers and greater transparency requirements for companies.

Data Protection

The rulings could influence how companies are required to handle and protect consumer data. This may include new standards for data security, consent mechanisms, and consumer rights to access or delete their data.

Implications for Marketing

The decisions could lead to more stringent regulations governing how marketers collect, use, and share consumer data. This could involve increased obligations for obtaining explicit consent, disclosing data practices, and ensuring robust data security measures.

CFPB proposed an interpretive rule for earned wage access (EWA) products

The CFPB's proposed interpretive rule clarifies how existing laws apply to paycheck advance products—also known as “earned wage access” products—replacing a 2020 advisory opinion that addressed a less common product.

This rule confirms that these product must comply with the federal Truth in Lending Act (TILA), including:

Finance Charges

Fees like "requested tips" and expedited delivery may be considered finance charges under the Act.

Required Disclosures

Lenders must provide clear disclosures about finance charges, helping borrowers compare options and fostering price competition.

> “The proposed interpretive rule makes clear that many paycheck advance products—whether provided through employer partnerships or marketed directly to borrowers—trigger obligations under the federal Truth in Lending Act.”
> – Consumer Financial Protection Bureau

The OCC, Federal Reserve, and FDIC released a request for information on bank-fintech partnerships

This joint request is looking for input on the nature of bank-fintech arrangements, effective risk management practices regarding bank-fintech arrangements, and the implications of these arrangements.

The agencies are looking for feedback from stakeholders—including banks,fintech companies, and the public—to better understand the challenges and opportunities presented by these partnerships and assess if updates to existing supervisory guidance would be helpful for addressing risks.

DOT launched an inquiry into the four largest U.S. airlines' co-branded credit card rewards programs to protect consumers from UDAAP

The Department of Transportation (DOT) is ordering airlines to submit information so they can to better understand and identify potential competition or consumer protection issues or risks.

Specific areas of concern

- Devaluing of earned rewards
- Hidden or dynamic pricing
- Extra unnecessary fees
- Reduction in competition and choice

This comes after the DOT and CFPB hosted a joint hearing on airline credit reward programs in May of 2024.

"The CFPB will continue to scrutinize the relationship between big credit card companies and big airlines."
– CFPB Director Rohit Chopra

Most Common Compliance Issues

How are these compliance issues identified?

PerformLine reviews, monitors, and flags hundreds of thousands of marketing assets each day for potential compliance violations. PerformLine's rulebooks are carefully curated collections of terms and phrases that are associated with specific compliance categories, regulations, laws, and guidelines that organizations use to monitor marketing content against to identify potential compliance violations at scale. These rulebooks cover everything from broad compliance concerns (like UDAAP) to industry or product-specific requirements.

The below compliance issues were the most commonly flagged and remediated within the PerformLine platform in Q3 of 2024

1. Disclosures

Disclosures include any information that lenders are required to include on their websites, social media profiles and posts,or other marketing materials regarding their products. Assets are flagged if any of the required disclosures are missing. This is most commonly identified in the mortgage industry but is applicable to other industries as well.

Common terms include:
Corporate ID, NMLS #s, Company URL

2. Offer Inflation

Offer inflation—also referred to as exaggerated claims—refers to statements that are not entirely truthful or accurate and are designed to make the product or service appear more attractive or valuable than it actually is.

Common terms include:
Free, the best, discount, no fees

3. Payday

The term "payday" is often used by fraudulent third-party websites to falsely promote products or services as payday loans, quick cash, or instant money. These sites misuse brand names, logos, and information, tricking consumers into thinking they're applying for a legitimate loan from a known company. In reality, consumers are giving their information to a fraudulent third party with no connection to the brand.

Common terms include:
Payday, title loans, cash advance

4. Instant Approval

"Instant approval" language includes any phrases that would imply that all consumers would be approved for a specific product immediately and without any barriers to approval. "Instant approval" can present a compliance issue because not all consumers can be guaranteed approval for said product.

Common terms include:
Instant approval, get approved

5. Subjective Language

Subjective language refers to terms or phrases that are open to interpretation or opinion, can be vague or ambiguous, and do not have a clear or objective meaning. Marketing materials that use subjective language to lure consumers into using a particular product or service can lead to UDAAP compliance issues if there is no substantiation or disclosure to clarify the statement being made.

Common terms include:
Best, top, expertise

Compliance Monitoring at Scale with PerformLine

Channel Spotlight: Across the Web

65%
of web pages were unknown and discovered with PerformLine

40%
of web pages were flagged for potential violations

In Q3 of 2024, PerformLine monitored and reviewed **hundreds of thousands of individual web pages**, helping organizations in highly regulated industries stay ahead of potential compliance risks. Notably, 65% of these **pages were previously unknown** to our clients and uncovered by PerformLine's proprietary web crawler.

Of the pages reviewed and monitored, **40% were flagged for potential compliance issues.**

Having a robust, automated monitoring system in place like PerformLine catches risks early—before they can escalate into costly enforcement actions, reputational damage, or regulatory penalties.

Compliance Monitoring at Scale with PerformLine

Work more efficiently with technology

Technology and automation help make marketing compliance more streamlined and efficient. Here are some ways we've helped leading organizations find success.

2.1k+
partners monitored automatically

385%
increase in compliance oversight

3.1k+
hours saved vs. manual review

With PerformLine, organizations achieve:

- **Scalability** of compliance monitoring, freeing up resources and increasing oversight capacity
- **Improved coverage,** reducing the risk of compliance violations and regulatory issues
- **Time savings,** allowing compliance teams to focus on higher-value tasks instead of tedious ones

Get ahead of emerging compliance risks and challenges with PerformLine.

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