

5 Evolving Marketing Risks That Finance Cos. Should Watch

By **Leslie Meredith and Vaishali Rao** (October 7, 2025)

Deceptive advertising claims are nothing new. For decades, regulators have imposed costly penalties against businesses, claiming they misled consumers through exaggerated claims, hidden fees or missing disclosures.

For financial services providers, the stakes are especially high. Regulators scrutinize their marketing materials and expect them to be substantiated, easily understood by consumers, and compliant with both broad consumer protection standards and technical disclosure requirements.

Today, new enforcement risks are emerging as perceived retrenchment and shifting priorities at the federal level have fueled a surge in activity by state regulators. In addition, regulators are expanding their focus into new areas that carry particular risk for financial services providers. From claims about artificial intelligence to pricing disclosures, influencer endorsements, marketing to younger consumers and even email subject lines, there are a lot of areas that warrant extra attention.

This article highlights emerging risk areas that financial services providers should be aware of and offers practical steps to help mitigate them.



Leslie Meredith



Vaishali Rao

Claims About AI Draw Intense Scrutiny

Regulators at both the state and federal level and on both sides of the aisle have made it clear: Claims about artificial intelligence in marketing and advertising are a top enforcement priority.

The Federal Trade Commission's Operation AI Comply, which launched in September 2024, has already generated multiple enforcement actions targeting companies that exaggerated the power or accuracy of their AI tools — or claimed that a product was powered by AI when in fact it was not.[1]

Most recently, in late August, the FTC approved a final consent order against software developer Workado LLC, resolving allegations that the company misrepresented the accuracy of its AI content detection tool as "98% accurate." The FTC found the tool was about 53% accurate, which the FTC noted is "barely better than a coin toss." [2]

States have also taken action to combat misleading claims about AI. In September 2024, the Texas attorney general announced a settlement with healthcare company Pieces Technologies, resolving allegations that the company made misleading claims about the accuracy of its generative AI products.[3] Several other states, including California, Massachusetts and Oregon have issued guidance affirming that existing consumer protection laws will be applied to evaluate companies' claims about AI.[4] These kinds of statements are often precursors to enforcement actions.

Financial services providers should exercise extreme caution before using AI-related terms in marketing. Substantiating any claim about AI is not optional — it is the baseline expectation. The relief obtained in these enforcement actions shows that regulators expect companies to demonstrate that any claims about AI are accurate and maintain documentation showing how the claims were substantiated.

Drip Pricing and Junk Fee Investigations Leading to Deceptive Advertising Claims

States have taken action to combat drip pricing — the practice of advertising a low headline price and later revealing additional mandatory fees — and junk fees, charges to consumers that add no real value in the eyes of the regulator. States like California, Massachusetts and Oregon have enacted new rules to combat these practices in multiple sectors, including financial services.[5]

Oregon's statute, enacted in June, prohibits an online seller of goods or services from advertising a price that does not include all fees and charges that the buyer must pay to complete the purchase. The law excludes certain government-imposed charges and reasonable shipping charges.

The law also exempts many financial services providers, but only to the extent that they are providing disclosures in compliance with federal requirements, such as the Truth in Lending Act and the Real Estate Settlement Procedures Act. This sets up a fairly complex overlay that financial services providers must navigate when advertising their products online.

Shortly before the Massachusetts regulation went into effect on Sept. 2, the Massachusetts Attorney General's Office released compliance guidance that gives examples of compliant and noncompliant advertisements, and addresses tricky topics such as how to give a complete price for products with negative option features or recurring monthly charges.[6]

The guidance also creates a limited safe harbor for assignees of a creditor under the Truth in Lending Act that "have substantial involvement in the lease transaction, regularly participate in a credit decision, including setting the terms of the credit, or who influence the credit decision by indicating whether or not they will purchase the obligation if the transaction is consummated."

The New York attorney general's April lawsuits against earned wage access providers DailyPay Inc. and MoneyLion Inc. include claims that the companies' marketing concealed the true costs of their services and misled consumers about fees.[7]

New York Attorney General Letitia James recently filed motions to remand in both cases on the basis that the claims at issue are primarily based in state law. The New York v. DailyPay case was recently remanded to a New York state court, while the motion to remand remains pending before the U.S. District Court for the Southern District of New York in New York v. MoneyLion. These cases illustrate how easily an action targeting pricing practices can expand to include claims about marketing and advertising.

Financial services providers should carefully review any claims about pricing and related disclosures to ensure consumers see the full cost up front. They should also carefully consider whether new state statutes and regulations in these areas apply to their products and services.

Continued Focus on the Use of Influencers and Testimonials

The FTC's focus on ensuring transparency in endorsements and testimonials has taken on new urgency with the explosion of influencer-driven marketing. Under the FTC's Endorsement Guides and accompanying FAQ, any material connection between an influencer and an advertiser must be disclosed.[8] These disclosures apply to all kinds of financial remuneration, including free or discounted products, travel perks, and even the possibility of being featured in future advertising.

The FAQ clarifies that simply offering customers a chance to be featured in a company's advertising can be seen as having value, since many social media users hope to strike it rich in the influencer economy. Financial services providers must consider whether and how to disclose that customers were told in advance they might be featured on social media.

Companies also have an affirmative obligation to monitor what influencers say on their behalf. The FTC has sent numerous warning letters and pursued enforcement actions against both brands and influencers who failed to disclose material connections.

Influencer marketing and the use of testimonials remains a high-risk area. Don't rely solely on a platform's built-in disclosure tools, as they may be inconsistent or ineffective. And don't blindly rely on influencer marketing partners to provide proper disclosures either. Ongoing monitoring, training and compliance documentation are essential.

Layers of Risk in Marketing to Children and Teens

Marketing directed at children and teens carries additional risks. At the federal level, the Children's Online Privacy Protection Act, or COPPA, imposes strict requirements on collecting personal information from children under 13.

While typically associated with privacy concerns, COPPA is also relevant to advertising and marketing directed at younger audiences. For example, COPPA prohibits conditioning a child's eligibility for a prize or game on their providing personal data.

States are expanding requirements beyond those in COPPA. Some states extend protections to teens up to age 16 or even 18. In a 2023 decision, *Jones v. Google LLC*, the U.S. Court of Appeals for the Ninth Circuit held that COPPA does not preempt these broader state law protections. As a result, financial services providers advertising on platforms accessible to younger users must account for multiple, overlapping compliance regimes.[9]

Financial services providers should not dismiss these developments simply because most enforcement in this area has focused on tech platforms' privacy practices. Any marketing directed at younger consumers — particularly on social media — requires heightened review for compliance with both COPPA and state law analogues.

Beyond CAN-SPAM: State Scrutiny of Email Subject Lines

The federal CAN-SPAM law sets baseline requirements for email marketing, but states are continuing to push past them. In April, the Washington State Supreme Court held in *Brown v. Old Navy LLC* that the state's Commercial Electronic Mail Act prohibits any false or misleading information in the subject line of a commercial email, not just misrepresentations about the email's commercial purpose.[10]

The plaintiffs in *Brown* claimed that a retailer's emails created a false sense of urgency by saying that a promotion would end on a certain date, when in reality the retailer extended the promotion for several more days. The ruling distinguished these types of deceptive

statements from mere puffery, which is not actionable.

This ruling significantly broadens liability for emails to Washington consumers. Other states, including Georgia, South Dakota and California, have similar statutes targeting misleading subject lines.

The Washington ruling should serve as a warning that financial services providers must review the subject lines of their marketing emails closely. Comparative claims, exaggerated offers or ambiguous wording can all invite scrutiny under state law.

A Final Takeaway

Taken together, these developments underscore a central theme: Regulators are broadening their focus and applying long-standing consumer protection principles to new technologies and marketing practices without missing a beat.

For financial services providers, the challenge is not just to keep pace, but to anticipate how familiar concepts like truth in advertising, substantiation and meaningful disclosure will be interpreted in emerging contexts. Reviewing marketing and advertising materials for enforcement and compliance risks must be a dynamic process that adapts alongside shifting regulatory priorities and consumer behavior.

To ensure that the review process remains dynamic and proactive, financial services providers should implement regular cross-functional reviews of marketing and advertising materials. This means not only conducting periodic audits of existing campaigns but also integrating compliance checks into the development of new materials.

Leveraging technology — such as automated monitoring tools that flag potentially noncompliant language or claims — can help identify risks early. Additionally, staying informed about regulatory developments and enforcement trends allows organizations to anticipate changes and adjust their practices before issues arise. Engaging in ongoing training for marketing, compliance and legal teams further ensures that everyone is aware of evolving standards and expectations.

One step financial services providers can take to further mitigate risk is to establish a feedback loop between reviewing customer complaints and evaluating marketing materials and practices. If customers report confusion about terms, fees or enrollment processes, that feedback can serve as an early warning sign that your advertising may be misleading to consumers. Regulators apply a reasonable consumer standard when evaluating marketing materials and practices, so listening to your customers can help you address issues as early as possible.

A feedback loop can be established by creating a regular meeting between members of the team responsible for tracking complaint trends and root causes, the marketing team, and the legal or compliance team members who monitor emerging consumer protection risk areas. Creating a space for these stakeholders to present data, highlight any individual complaints that directly relate to marketing, and discuss the company's current and upcoming marketing efforts will put the company in a better position to respond to concerns early and demonstrate a proactive approach.

By fostering a culture of continuous improvement and open communication, financial services providers can more effectively anticipate and adapt to evolving regulatory expectations and consumer needs. This proactive approach not only helps mitigate

enforcement risk, but also demonstrates a genuine commitment to transparency and customer-centricity. Over time, this commitment will protect the company's reputation and differentiate it in the market.

Leslie Meredith is a partner at Hinshaw & Culbertson LLP

Vaishali S. Rao is a partner at the firm. She previously served as a supervising attorney in the Consumer Fraud Bureau of the Illinois Attorney General's Office.

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[1] <https://www.ftc.gov/news-events/news/press-releases/2024/09/ftc-announces-crackdown-deceptive-ai-claims-schemes>.

[2] <https://www.ftc.gov/news-events/news/press-releases/2025/08/ftc-approves-final-order-against-workado-llc-which-misrepresented-accuracy-its-artificial>.

[3] <https://www.texasattorneygeneral.gov/news/releases/attorney-general-ken-paxton-reaches-settlement-first-its-kind-healthcare-generative-ai-investigation>.

[4] <https://www.mass.gov/doc/ago-ai-advisory-41624/download>; <https://www.doj.state.or.us/wp-content/uploads/2024/12/AI-Guidance-12-24-24.pdf>; <https://oag.ca.gov/system/files/attachments/press-docs/Legal%20Advisory%20-%20Application%20of%20Existing%20CA%20Laws%20to%20Artificial%20Intelligence.pdf>.

[5] <https://olis.oregonlegislature.gov/liz/2025R1/Downloads/MeasureDocument/SB430/Enrolled>; <https://oag.ca.gov/hiddenfees> <https://www.mass.gov/news/ag-campbell-releases-junk-fee-regulations-to-help-consumers-avoid-unnecessary-costs>.

[6] <https://www.mass.gov/doc/guidance-with-respect-to-unfair-and-deceptive-fees-07292025/download>.

[7] <https://ag.ny.gov/press-release/2025/attorney-general-james-sues-payday-lending-companies-exploiting-workers-illegal>.

[8] <https://www.ecfr.gov/current/title-16/chapter-I/subchapter-B/part-255>; <https://www.ftc.gov/business-guidance/resources/ftcs-endorsement-guides-what-people-are-asking>.

[9] *Jones v. Google LLC*, 73 F.4th 636 (9th Cir. 2023), <https://cdn.ca9.uscourts.gov/datastore/opinions/2023/07/13/21-16281.pdf>.

[10] <https://www.courts.wa.gov/opinions/pdf/1025921.pdf>.