

FTC Seeks Public Comment on Updating its Guidance on Preventing Digital Deception

The Bottom Line

- The FTC is revising its Dot Com Disclosure Guides to address dark patterns and other forms of digital deception.
- The FTC plans to crack down on deceptive disclosures and other forms of digital deception; marketers should review their online disclosure practices to ensure they are in compliance with the law.
- Comments are due by August 2, 2022.

The Federal Trade Commission (FTC) is seeking public comment on proposed revisions to its Guide, entitled “.com Disclosures: How to Make Effective Disclosures in Digital Advertising” (the Dot Com Disclosure Guides). Last year the FTC announced a new enforcement policy to crack down on illegal dark patterns, such as tricking users, trapping them into signing up for subscription plans or making it impossible to cancel ongoing billing and unauthorized charges. The FTC’s updates to the Dot Com Disclosure Guides are expected to address dark patterns and other deceptive tactics on the Internet.

The Dot Com Disclosure Guides

First published in March 2013, [the Dot Com Disclosure Guides](#) detail the information businesses should consider when developing ads for online media to ensure they are in compliance with the law. The Dot Com Disclosure Guides were intended to provide guidance to marketers on making disclosures that are clear and conspicuous and not deceptive. However, according to the FTC, marketers have used the guidance to justify deceitful online practices, such as using hyperlinks to bury disclosures, which can expose consumers to financial fraud, intrusive surveillance and other harms.

Relevant Issues for Comment

The FTC plans to update the guidance, emphasizing that “online tricks and traps” are prohibited. The FTC is seeking public comment on the following:

- Use of sponsored and promoted advertising on social media;
- Advertising embedded in games and virtual reality, and microtargeted advertisements;
- Use of dark patterns: manipulative user interface designs on websites and mobile apps and in digital advertising that pose unique risks to consumers;
- Whether current guidance sufficiently addresses advertising on mobile devices;
- Whether additional guidance is necessary regarding multi-party selling arrangements involved in online commerce and affiliate marketing arrangements;
- How the guidance on the use of hyperlinks can be strengthened to better protect consumers;
- The adequacy of online disclosures when consumers must navigate multiple webpages.

Request for Public Comment

The FTC has requested public comment on possible revisions to its guidance on preventing digital deception. Companies have until August 2, 2022, to file such comments, and Davis+Gilbert is happy to assist anyone who wishes to file comments.

For More Information

Please contact the attorneys listed below or the Davis+Gilbert attorney with whom you have regular contact.

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