

How Cos. Can Prepare For 'Made In America' Ad Scrutiny

By **Margaret Krawiec, Meredith Slawe and Todd Kelly** (April 3, 2026, 5:17 PM EDT)

On March 13, the Trump administration took a number of steps in quick succession related to consumer protection. More specifically, President Donald Trump issued an executive order to combat fraudulent "Made in America" claims in consumer-facing advertising.[1]

And the Federal Trade Commission has advanced price transparency by issuing an advance notice of proposed rulemaking, or ANPRM, on the Negative Option Rule; issuing a second ANPRM related to unfair and deceptive rental housing fees; and sending warning letters to auto dealers about alleged deceptive pricing.

These actions suggest a potential increased focus on consumer protection and pricing-related matters by the FTC.

Executive Order on a "Made in America" Advertising Rule

Executive Order No. 14392 to strengthen enforcement against false or misleading "Made in America" advertising claims instructs the commission to:

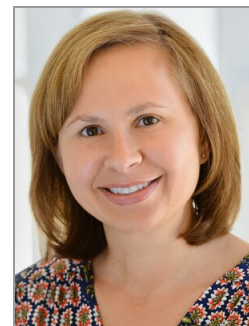
- Prioritize enforcement actions against sellers and manufacturers "who falsely claim their products are 'Made in America'"; and
- Consider issuing a rule that would make "the failure of an online marketplace to establish procedures for verifying country-of-origin claims" a violation of Section 5 of the FTC Act.[2]

The prior Trump administration sought to combat these claims as well. During Trump's first term, the commission proposed the Made in USA Labeling Rule, which was finalized under the Biden administration in August 2021. The rule prohibits businesses from marketing their products as "Made in America" unless all or virtually all of the products are made in the U.S., with processing and final assembly also occurring in the U.S.[3]

Consumer-facing businesses should expect increased enforcement of "Made in America" advertising claims under both the Made in USA Labeling Rule and Section 5. Since 2014, the FTC has issued around 300 closing letters related to "Made in America" deceptive advertising claims, citing both Section 5 and the Made in USA Labeling Rule.[4]

The "Made in America" closing letters generally stated that the FTC was closing investigations after businesses agreed to remove the "Made in America" labels or implemented remedial action plans. The FTC uses closing letters to signal concerning conduct to other companies, and it may continue to utilize closing letters in this new enforcement push.[5]

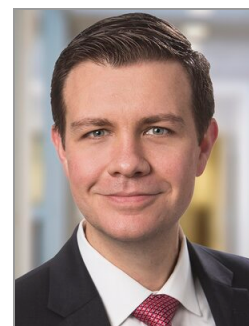
Businesses should consider monitoring FTC enforcement of "Made in America" advertising claims



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related to, in particular, the sale of products in online marketplaces. Enforcement trends in this area could indicate what a future rule could look like and permit e-commerce companies to get a head start in assessing their business practices.

ANPRM on the Negative Option Rule

On March 11, the FTC announced an ANPRM to seek public comment on amending its Negative Option Rule. Negative option plans are practices "that allow[] a seller to interpret a customer's silence, or failure to take an affirmative action, as acceptance of an offer." [6]

The purpose of the FTC's ANPRM is to solicit comments on these practices to help consumers "avoid recurring payments for products and services they did not intend to order and to allow them to cancel such payments without unwarranted obstacles."

The Biden administration FTC amended the Negative Option Rule to require that businesses make canceling subscriptions as easy as enrolling. [7] However, in *Custom Communications Inc. v. FTC*, the U.S. Court of Appeals for the Eighth Circuit **vacated** the amended rule on July 8, 2025, on procedural grounds, and the FTC did not appeal or attempt to reintroduce the amendments after the vacatur.

The ANPRM notes ongoing concerns from consumers about negative option marketing practices. According to the FTC, it receives more than 90 complaints per day about alleged unfair and deceptive negative option marketing practices.

Public comment is requested on "practices that prevent consumers from understanding the terms of the negative option program, enroll consumers without their express informed consent, or impede consumers from canceling their enrollments." [8] The ANPRM is also seeking public comment by April 13 on potential amendments to the Negative Option Rule, including adopting provisions of the vacated amendments.

ANPRMs do not always lead to future rulemaking, so it is yet unknown whether this one will lead to any new restrictions on negative option marketing practices. If the FTC does decide to move forward with rulemaking, it will follow up with a notice of proposed rulemaking that will invite further public comment. Concerned companies should consider monitoring any related rulemaking steps.

ANPRM on Unfair and Deceptive Housing Fees

On March 12, the FTC announced an ANPRM on unfair and deceptive rental housing fees to "explore[] whether a rule is needed to address hidden and misleading fees that inflate rent well beyond what is advertised and other problematic fee practices." [9]

The Rule on Unfair or Deceptive Fees — also known as the junk fees rule — proposed by the Biden administration FTC in November 2023, would have prohibited unfair or deceptive fees across all industries, including rental housing. At that time, the FTC indicated that addressing misleading rental housing fees was an enforcement priority, and it could have utilized the rule for related enforcement.

Ultimately, the FTC limited its final junk fees rule to regulate only advertising of live-event ticketing and short-term lodging, not rental housing. [10] Rulemaking on rental housing fees could fill a previously identified enforcement gap.

The ANPRM identifies several misleading pricing practices, and warns that unfair and deceptive advertising of rental housing fees could violate Section 5 and the Gramm-Leach-Bliley Act by "falsely representing the price of a rental home and thereby obtaining or attempting to obtain customer information of a financial institution." [11]

The ANPRM seeks public comment by April 13 on the nature of deceptive rental housing fees. Like the Negative Option Rule ANPRM, it includes an extensive list of questions for commenters to address.

As noted, ANPRMs do not always lead to future rulemaking, so the future of any rule on unfair or deceptive rental housing fees is unclear at this time, but companies may want to keep tabs on any related rulemaking steps in the meantime.

Warning Letters to Auto Dealers

On March 13, the FTC announced that it had issued warning letters to 97 auto dealers about their alleged deceptive pricing practices.[12]

Warning letters typically inform respondents that their conduct is likely unlawful, and the FTC issues them to persuade respondents to change their conduct without initiating formal proceedings against them.[13]

The FTC published a sample warning letter along with its announcement that called on auto dealers to advertise only actual prices. The sample letter indicated that it is deceptive for auto dealers to advertise prices for cars lower than what auto dealers actually charge consumers.[14]

It listed examples of deceptive pricing practices, including advertising prices that exclude required fees, reflect discounts not available to all consumers, or are conditioned on dealer financing or purchasing additional items. The sample warning letter also cited a handful of 2024 lawsuits the FTC initiated against auto dealers related to deceptive pricing practices.

The FTC thus continues to pursue deceptive pricing practices in the auto industry under Section 5. In light of the warning letters, auto dealers should consider reviewing their advertising and pricing to ensure that advertised prices align with actual prices, without any add-on fees.

Final Thoughts

The Trump administration has indicated it is interested in increased enforcement related to consumer protection issues. In light of these recent developments, businesses should be aware of the potential for increased enforcement and possible rulemaking related to consumer-facing advertising.

Companies wishing to be proactive can audit their consumer-facing advertising and customer flows to prepare for potential enforcement. Companies that advertise that their products are "Made in America" can make sure that information on their supply chain is up-to-date and that the "Made in America" claim remains accurate on a product-by-product basis.

Companies can also review their current customer flows to take stock of what fees are charged at what points in the flow to understand if they would be at risk in the event that the focus on pricing issues continues to encompass additional industries.

Monitoring the administration's consumer protection initiatives could mitigate risk and ensure continued compliance for concerned companies. Staying abreast of the commission's issuance of closing and warning letters, in addition to formal enforcement and rulemaking, can help companies proactively update their advertising practices in line with FTC guidance and priorities.

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[1] www.whitehouse.gov/fact-sheets/2026/03/fact-sheet-president-donald-j-trump-ensures-truthful-advertising-of-products-claiming-to-be-made-in-america/.

[2] www.federalregister.gov/documents/2026/03/18/2026-05383/ensuring-truthful-advertising-of-

products-claiming-to-be-made-in-america?ref=queenstreetanalytics.org.

[3] <https://www.federalregister.gov/documents/2021/07/14/2021-14610/made-in-usa-labeling-rule>.

[4] <https://www.ftc.gov/legal-library/browse/cases-proceedings/closing-letters>. Closing letters are informal notices from the FTC informing a respondent that the Commission has concluded an investigation into them and does not intend to pursue formal enforcement at that time.

[5] <https://www.cdiaonline.org/views/2021/05/27/ftc-opens-up-about-closed-letters/>.

[6] <https://www.regulations.gov/document/FTC-2026-0265-0001>.

[7] <https://www.bloomberglaw.com/external/document/X4VBG8J8000000/commercial-professional-perspective-ftc-s-accelerating-agenda-fo>.

[8] <https://www.federalregister.gov/documents/2026/03/13/2026-04952/rule-concerning-the-use-of-prenotification-negative-option-plans>.

[9] <https://www.ftc.gov/news-events/news/press-releases/2026/03/ftc-seeks-public-comment-proposed-rulemaking-regarding-unfair-or-deceptive-rental-housing-fee>.

[10] <https://www.ftc.gov/news-events/news/press-releases/2025/05/ftc-rule-unfair-or-deceptive-fees-take-effect-may-12-2025>.

[11] https://www.ftc.gov/system/files/ftc_gov/pdf/ftc-letter-to-pms_12032025.pdf.

[12] <https://www.ftc.gov/news-events/news/press-releases/2026/03/ftc-warns-97-auto-dealership-groups-about-deceptive-pricing>.

[13] <https://www.ftc.gov/news-events/topics/truth-advertising/about-ftc-warning-letters>.

[14] <https://www.skadden.com/-/media/files/publications/2026/03/trump-administration-focuses/sample-warning-letter>.