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Competition and Consumer Policy in Digital Markets – Note by the United States

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1. Introduction

1. This paper is offered in response to the Competition Committee and Consumer Policy Committee's joint roundtable on competition and consumer policy in digital markets.

2. Competition and consumer protection laws promote free market competition by correcting distortions in markets and promoting informed consumer choice. Competition law supports free markets by safeguarding the competitive process—the rivalry between market participants that incentivizes them to, for example, offer lower prices, enhance quality, innovate, improve wages and working conditions, and expand choice.² The FTC intervenes when business conduct has distorted or threatens to distort a market by artificially suppressing or eliminating rivalry.³ For its part, consumer protection law stops unfair or deceptive business practices, allowing consumers to make well-informed decisions based on truthful information. Truthful information promotes free market competition by ensuring that businesses compete based on the merits of their products and that consumers have accurate information to make purchasing decisions, based on the merits of products. As an agency with the dual mission of enforcing competition and consumer protection laws, the FTC is well positioned to share its views on how its consumer protection efforts promote competition.

3. While FTC consumer protection cases have promoted competition in sectors across the economy, the increasing importance of digital markets in the U.S. economy makes it particularly critical to understand how consumer protection enforcement in digital markets has facilitated increased competition. To that end, this contribution summarizes recent cases involving online subscription services, a digital platform for reselling sporting event tickets, and AI-powered services.

2. *FTC v. Amazon.com, Inc.*

4. A nearly endless range of products and services are now available online, from physical goods and digital media to on-demand services such as fitness, education, and AI-powered services. This explosion in offerings has been facilitated by rapid business model innovation, including subscription services, online marketplaces, digital platform ecosystems, direct-to-consumer brands, and data-driven personalization. The advent of online subscription services brought with it potential ease and convenience to consumers, but those services may have downsides if, for example, executed in a manner confusing to consumers. Now, consumers can purchase goods and services in numerous ways, including on smartphones, tablets, and internet-connected home devices, such as speakers and televisions. Many businesses have experimented with these channels by making it faster

¹ This contribution was prepared by the Federal Trade Commission.

² See, e.g., *N.C. Bd. of Dental Exam'rs v. FTC*, 574 U.S. 494, 502 (2015); U.S. DEP'T OF JUSTICE & FED. TRADE COMM'N, *MERGER GUIDELINES 1* (2023).

³ The Federal Trade Commission shares competition enforcement authority with the Antitrust Division of the Department of Justice.

and more convenient for consumers to purchase goods and services. For instance, a business may experiment with the design of its webpage or mobile app to reduce friction in the online checkout process. While it is conceivable that using a deceptive online subscription or cancellation webpage design could be a form of unlawful monopolization that violates the antitrust laws, it may be more appropriate to address such conduct using consumer protection law.⁴ Such practices could be unlawful if the design makes customers think they are making a one-time purchase when in fact they are unknowingly enrolling in a subscription.⁵

5. The FTC’s lawsuit against Amazon, brought under the FTC Act and the Restore Online Shoppers’ Confidence Act (“ROSCA”), shows how consumer protection laws can be used to address harmful practices by large technology companies.⁶ Here, the FTC alleged that Amazon had used unlawful methods to enroll millions of American consumers in Prime subscriptions without their consent, and knowingly made it difficult for consumers to cancel those subscriptions.⁷ Specifically, the FTC alleged that Amazon’s deceptive methods for enrolling consumers in Prime included forcing consumers to find a small blue text link to make a purchase without joining Prime, while using a far more prominent button that said “Get FREE Two-Day Shipping” that actually enrolled the consumer in Prime, a tactic that an internal business document described as “misdirection.”⁸ As for knowingly making it difficult for consumers to cancel Prime, the FTC alleged that Amazon created a labyrinthine cancellation process that the company called “Iliad,” the name of Homer’s epic about the long, arduous Trojan War.⁹ Under this process, a customer would need to navigate to a four-page, six-click, fifteen-option cancellation process to end their Prime subscription. By contrast, enrolling in Prime required just one or two clicks. Furthermore, Amazon company policy required customer service employees to direct consumers who called to cancel Prime to the Iliad process online, even though those customer service agents had the ability to process cancellation requests.

⁴ Andrew Ferguson, Comm’r, Fed. Trade Comm’n, Remarks at the Taiwan Fair Trade Comm’n International Conference on Competition Policy, at 3 (June 26, 2024), https://www.ftc.gov/system/files/ftc_gov/pdf/2024.06.26-Ferguson-TFTC-Remarks.pdf (“I am arguing more broadly about the importance of confining competition law to its traditional domain and relying on other laws to pursue other values we care about.”).

⁵ Christopher Mufarrige, Director, Bureau of Consumer Protection, Fed. Trade Comm’n, Prepared Remarks for George Mason University Antonin Scalia Law School’s Law & Economics Center Conversation with FTC Bureau of Consumer Protection Director 10 (Mar. 5, 2026), https://www.ftc.gov/system/files/ftc_gov/pdf/mufarrige-remarks-gmu-scalia-law-lec.pdf.

⁶ Press Release, Fed. Trade Comm’n, FTC Takes Action Against Amazon for Enrolling Consumers in Amazon Prime Without Consent and Sabotaging Their Attempts to Cancel (June 21, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/06/ftc-takes-action-against-amazon-enrolling-consumers-amazon-prime-without-consent-sabotaging-their>.

⁷ Press Release, Fed. Trade Comm’n, FTC Secures Historic \$2.5 Billion Settlement Against Amazon (Sept. 25, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/09/ftc-secures-historic-25-billion-settlement-against-amazon>.

⁸ Press Release, Fed. Trade Comm’n, FTC Adds Senior Executives Who Played Key Roles in Prime Enrollment Scheme to Case Against Amazon (Sept. 20, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/09/ftc-adds-senior-executives-who-played-key-roles-prime-enrollment-scheme-case-against-amazon>.

⁹ Amended Complaint at ¶¶ 7, 127–28, FTC v. Amazon.com, Inc., No. 23-cv-932 (W.D. Wash. Sept. 20, 2023).

6. Under a historic settlement reached last September, Amazon must pay up to \$1.5 billion in redress, providing full relief to approximately 35 million American consumers harmed by unwanted Prime enrollment or deferred cancellation, as well as a \$1 billion civil penalty, the largest ever for an FTC rule violation. Additionally, the settlement requires Amazon to cease its unlawful practices and make meaningful changes to its enrollment and cancellation processes for Prime. For instance, Amazon must include clear and conspicuous disclosures about the material terms of Prime during the enrollment process, including the cost, the date and frequency of charges, whether the subscription automatically renews, and the cancellation procedures. As for cancellation, Amazon must create a simple way for consumers to cancel Prime and cannot make the process difficult, costly, or time-consuming.

3. FTC v. StubHub Holdings, Inc.

7. The internet is a powerful tool that can provide consumers with easy access to price information for countless products and services offered by multiple sellers. Online platforms, retailers, and search engines often make it straightforward for consumers to evaluate price and non-price terms side by side. This transparency encourages competition, pushing businesses to offer lower prices, clearer information, and improved customer experiences. As a result, consumers benefit from more informed decision-making and a marketplace that rewards value and efficiency. Some businesses, however, seek to gain an advantage over their competitors by advertising prices without clearly and conspicuously disclosing additional mandatory fees, preventing consumers from easily seeing the total price of a good or service and, thus, making informed decisions comparing various offerings. In such cases, these businesses may violate the FTC Act and the FTC's Rule on Unfair or Deceptive Fees.¹⁰

8. In April, StubHub, one of the world's largest online ticket resale platforms, agreed to settle allegations brought by the FTC that it advertised ticket prices without disclosing the full price consumers would pay.¹¹ In particular, the FTC alleged that StubHub failed to include mandatory fees and failed to disclose total prices everywhere it displayed prices. The FTC's complaint highlighted a specific example of StubHub's deceptive conduct in May 2025, when the National Football League announced its game schedule for the upcoming season. Specifically, StubHub advertised prices that excluded mandatory fees, only disclosing those fees on subsequent pages after the consumer initiated the transaction process.¹² Furthermore, even when StubHub disclosed the mandatory fees at the checkout page, it failed to disclose the total price; instead, StubHub merely listed line items for the ticket, fees, and taxes without totaling them. Under the settlement, StubHub must pay \$10 million in redress to provide relief to eligible consumers.¹³ Additionally, StubHub is prohibited from misrepresenting the total price of goods and services and advertising any price without clearly and conspicuously disclosing the total price.

¹⁰ FTC Rule on Unfair or Deceptive Fees, 16 C.F.R. § 464 (2025).

¹¹ Press Release, Fed. Trade Comm'n, StubHub Refunding \$10 Million in Fees to Consumers After Deceptive Ticket Pricing (Apr. 9, 2026), <https://www.ftc.gov/news-events/news/press-releases/2026/04/stubhub-refunding-10-million-fees-consumers-after-deceptive-ticket-pricing>.

¹² *Id.*

¹³ *Id.*

4. In re Workado, LLC and FTC v. Air AI Technologies, Inc.

9. Artificial intelligence has the potential to transform the U.S. economy by increasing productivity, accelerating innovation, and fostering new industries and business models. President Trump’s AI Action Plan seeks to ensure that the U.S. harnesses the transformative potential of this technology for the benefit of American consumers and businesses by directing the US Government agencies to encourage and facilitate the broad adoption and use of AI throughout the economy.¹⁴ Guided by the AI Action Plan’s principles, the FTC’s approach to anticompetitive, deceptive, and fraudulent conduct in AI markets or involving AI technology reflects two principles: targeted enforcement and avoidance of burdensome regulations.¹⁵ As more businesses and consumers experiment with AI, some firms offering AI-powered products and services are resorting to unfair or deceptive tactics to secure a customer’s business rather than competing on the merits of their offerings.¹⁶ By deceiving customers about the true capabilities of their AI-powered products, firms prevent customers from making accurate comparisons, resulting in distorted markets. Recent FTC enforcement actions against firms that use such tactics are helping to ensure trust in this growing industry and, ultimately, promote the adoption of AI by consumers and businesses.¹⁷

10. In April 2025, the FTC settled allegations that Workado made misleading claims about its “AI Content Detector” service, which the company marketed as a tool that could detect whether online content was developed using generative AI technology or if it was written by a human being. Workado claimed that its product was developed using a wide range of material to make it more accurate for the average user. In fact, Workado asserted that the tool was 98% accurate in detecting whether text was authored by AI or a human. The FTC alleged, however, that Workado’s model was trained only to classify whether academic content was written by AI or a human, and that independent testing showed the

¹⁴ THE WHITE HOUSE, AMERICA’S AI ACTION PLAN (2025), <https://www.whitehouse.gov/wp-content/uploads/2025/07/Americas-AI-Action-Plan.pdf>.

¹⁵ Fed. Trade Comm’n, Testimony of the Federal Trade Commission Before the U.S. Senate Committee on Commerce, Science, and Transportation, at 14 (Apr. 15, 2026), https://www.ftc.gov/system/files/ftc_gov/pdf/p994811-ftc-oversight-testimony-senate-commerce-committee-2026.pdf [hereinafter FTC Testimony] (“Consistent with America’s AI Action Plan, rather than burdening innovation by regulation, the Trump-Vance FTC is encouraging growth in the AI market by targeting bad actors who undermine innovation through deception.”); Andrew N. Ferguson, Chairman, Fed. Trade Comm’n, Prepared Remarks for the 13th Annual Seoul International Competition Forum 3–4 (Sept. 3, 2025), https://www.ftc.gov/system/files/ftc_gov/pdf/2025-09-03-Seoul-International-Competition-Forum-Remarks-Final.pdf [hereinafter Seoul Remarks] (“I encourage all of us to adopt a posture of regulatory optimism toward AI. Let us not assume the worst outcomes and rush to regulate on that basis.”); Andrew N. Ferguson, Chairman, Fed. Trade Comm’n, Competition in the 21st Century: Heeding the Rallying Cry for Deregulation, Prepared Remarks, Int’l Competition Network Annual Conference, at 4 (May 7, 2025), https://www.ftc.gov/system/files/ftc_gov/pdf/chairman-ferguson-2025-icn-remarks.pdf.

¹⁶ See, e.g., Andrew N. Ferguson, Chairman, Fed. Trade Comm’n, Current Issues and the Future of Competition Law, Remarks at GVH 35: The 8th Hungarian Competition Law Forum 6–7 (Mar. 19, 2026), https://www.ftc.gov/system/files/ftc_gov/pdf/ferguson-hungary-gvh35-remarks.pdf (“Do we wish to have a society in which businesses succeed by enhancing consumer choice—and ultimately, confidence in commerce—via genuine innovation and improvements in product quality? Or a society in which businesses succeed by undermining consumer choice via lies and deception?”).

¹⁷ FTC Testimony, *supra* note 15, at 14.

model was accurate only 53% of the time. The FTC’s settlement helps to restore trust in the marketplace by, among other things, prohibiting Workado from making any representations about the effectiveness of any AI content detection product unless it is not misleading and the company has competent and reliable evidence to support its claims.¹⁸

11. In August 2025, the FTC sued Air AI and its owners to stop them from making deceptive claims about business growth, earnings potential, and refund guarantees to trick entrepreneurs and small businesses into purchasing their services.¹⁹ Among other false, unsubstantiated, or misleading claims about business coaching materials and support services, the FTC alleged that Air AI and its owners advertised the company’s flagship conversational AI product as capable of replacing human customer service representatives and, in combination with Air AI’s other services, making business owners significant amounts of money.²⁰ The FTC further alleged that, despite these claims, the entrepreneurs and small businesses who paid for these services did not earn the promised profits or even recoup the money they had paid to Air AI, which, in some cases, was as much as \$250,000.²¹ To resolve these serious allegations, Air AI and its owners agreed to a settlement that prohibits them from marketing any business opportunity, making false claims or misrepresentations while selling any goods or services, and making earnings claims without adequate substantiation.²² By banning Air AI and its owners from marketing business opportunities ever again, the FTC’s settlement helps to rebuild entrepreneurs’ and small businesses’ trust in the emerging AI industry, an essential ingredient for accelerating AI adoption and innovation throughout the U.S. economy.

5. Conclusion

12. Digital markets and technologies continue to evolve at a rapid pace, creating both significant opportunities and complex challenges for consumers, businesses, and law enforcement agencies. Recent FTC cases demonstrate that vigorous consumer protection enforcement facilitates informed decision-making by consumers. And when businesses must compete on the merits of the products and services, rather than resort to unfair or deceptive practices, the competitive process forces them to improve their offerings by, for example, reducing prices, improving quality, or innovating.

¹⁸ Press Release, Fed. Trade Comm’n, FTC Approves Final Order against Workado, LLC, Which Misrepresented the Accuracy of its Artificial Intelligence Content Detection Product (Aug. 28, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/08/ftc-approves-final-order-against-workado-llc-which-misrepresented-accuracy-its-artificial>.

¹⁹ Press Release, Fed. Trade Comm’n, FTC Sues to Stop Air AI from Using Deceptive Claims about Business Growth, Earnings Potential, and Refund Guarantees to Bilk Millions from Small Businesses (Aug. 25, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/08/ftc-sues-stop-air-ai-using-deceptive-claims-about-business-growth-earnings-potential-refund>.

²⁰ *Id.*

²¹ *Id.*

²² Press Release, Fed. Trade Comm’n, Air AI and its Owners will be Banned from Marketing Business Opportunities to Settle FTC Charges the Company Mised Many Entrepreneurs and Small Businesses (Mar. 24, 2026), <https://www.ftc.gov/news-events/news/press-releases/2026/03/air-ai-its-owners-will-be-banned-marketing-business-opportunities-settle-ftc-charges-company-mised>.