

The Top
UDAAP
Compliance Issues
Across Published Content









2023



Built using proprietary data from the PerformLine platform, this report offers a comprehensive analysis and unique insights into the top UDAAP compliance issues across various consumer finance industries.

In this report, you'll find the most commonly flagged and remediated UDAAP categories across published content, specific terms and phrases within each, and specific examples of marketing materials that have been found to be non-compliant for additional context.

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About the Report

Background

According to the Consumer Financial Protection Bureau (CFPB), unfair, deceptive, or abusive acts or practices (UDAAP) can cause significant financial injury to consumers, erode consumer confidence, and undermine the financial marketplace. Under the Dodd-Frank Act, it is unlawful for any provider of consumer financial products or services or a service provider to engage in any unfair, deceptive, or abusive act or practice. Its purpose is to ensure that consumers have access to the information they need in order to choose the best product or service for their individual situations and needs and to prevent organizations from harming consumers.

UDAAP can be difficult to identify and monitor because of its broad definition. UDAAP is ambiguous by nature to cover a wide range of potential wrongdoings by organizations or their partners. There are many ways in which these rules can be interpreted, and previous regulatory standards aren't always consistent.

Failure to comply with UDAAP can lead to severe enforcement actions from the regulators, including both monetary fines and more "structural" remedies, including bans on business practices, caps on size or growth, etc. Keen attention to UDAAP compliance is critical in today's turbulent regulatory environment where consumer protection is top of mind.

Methodology

PerformLine monitors thousands of marketing assets daily for UDAAP compliance using proprietary technology and expert rulebooks to search for potential violations. Assets include published content on web pages and social media posts and profiles across a wide variety of industries, including banking, mortgage, buy now, pay later (BNPL), credit cards, fintechs, partner banks, and higher education institutions.

This study was conducted over a 6-month period reviewing hundreds of thousands of pieces of published content across the web and social media. This study reveals the top monitored and remediated categories that companies use to ensure that their marketing materials are free from any potential unfair, deceptive, or abusive acts or practices.

How to tell if an act or practice is **Unfair, Deceptive, or Abusive**

UDAAP compliance can be complex. For the sake of simplicity, here are high-level explanations of what's considered unfair, abusive, or deceptive, according to the CFPB. These definitions will help give clarity to why certain categories or terms outlined in this report may be considered UDAAP issues.

Unfair

An act or practice is unfair when:

- It causes or is likely to cause substantial injury to consumers
- The injury is not reasonably avoidable by consumers
- The injury is not outweighed by countervailing benefits to consumers or to competition

Deceptive

A representation, omission, act, or practice is deceptive when:

- The representation, omission, act, or practice misleads or is likely to mislead the consumer
- The consumer's interpretation of the representation, omission, act, or practice is reasonable under the circumstances
- The misleading representation, omission, act, or practice is material

Abusive

An abusive act or practice:

- Materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service
- Takes unreasonable advantage of:
 - A lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service
 - The inability of the consumer to protect their interests in selecting or using a consumer financial product or service
 - The reasonable reliance by the consumer on a covered person to act in the interests of the consumer



Section 1

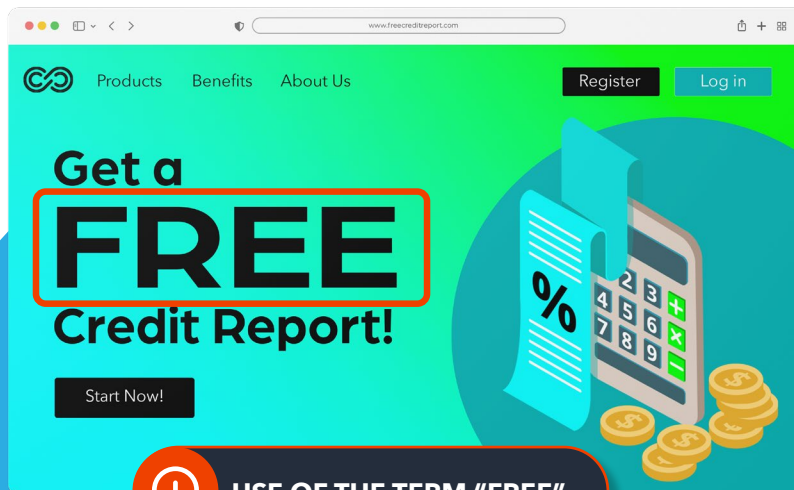
Exaggerated Claims

Exaggerated claims in marketing materials for financial products refer 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.

Marketing materials that make exaggerated claims about certain offers can be flagged as a UDAAP compliance violation because they create an expectation in the minds of the customers that may not be entirely accurate.

Free

Using the word “free” in marketing materials could create unrealistic expectations among customers if there are undisclosed fees, conditions, or restrictions that would make the product or service not truly free. The use of this term could lead consumers into making a decision that they otherwise wouldn’t have made and can ultimately lead to more harm in the long run.



USE OF THE TERM “FREE”

This website offers consumers a “free” credit report—but, they require the customer to sign up for a credit monitoring service with a monthly fee, making the report not actually free. This web page doesn’t clearly make that disclosure, which may deceptively lead to a consumer signing up without fully understanding the associated fees.

Discount

The term “discount” and related terms (such as “discounted”) would be considered misleading or deceptive if it’s used in a way that could mislead consumers into believing that they are receiving a better deal than they actually are. The consumer may be falsely led to believe that they’re actually receiving a discount or a good deal when in reality, the offer isn’t any better than standard offers for that product or service.

This credit card company is offering a “discount” on purchases if consumers sign up, but the discount only applies to a limited set of items. The marketing material doesn’t clearly communicate that to consumers, which could lead to them applying for a credit card that they wouldn’t have otherwise and having a hard credit check on their report.

**Sign Up for
Our Credit Card
& Get a 20% Discount
on your purchase**

Sign up at www.xyzcredit.com

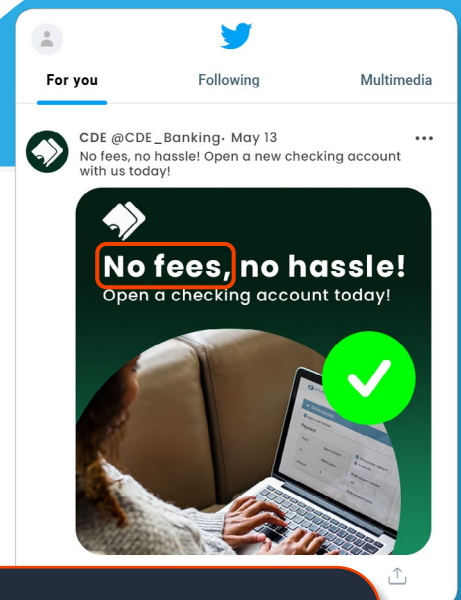


USE OF THE TERM “DISCOUNT”

No Fees

Using the phrase “no fees” in marketing materials may be risky because it may be presented in an unclear or ambiguous way, making it difficult for consumers to understand what fees are included and excluded. There may be certain aspects of the product or service that don’t have any fees, but if others do, then that could be considered misleading if those conditions aren’t clearly communicated.

This bank is offering a checking account with “no fees,” which is partially true—they don’t charge maintenance fees for their checking accounts. However, there are still fees with other services, such as overdrafts, stop payments, or wire transfers. As a result, consumers may reasonably believe that they will not incur any fees when using the checking account based on the marketing materials, which isn’t entirely true.

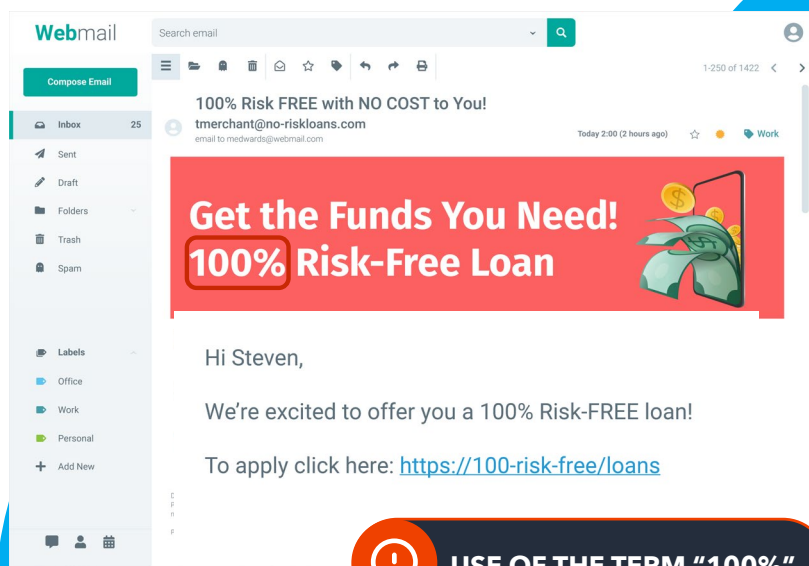


USE OF THE TERM “NO FEES”

100%

The term “100%” may be flagged as deceptive or misleading because it indicates that something is completely true, without any exceptions or limitations. But, in many cases, it’s considered to be an exaggerated claim and is not actually completely true.

The term “100%” may also be considered as a “no barrier to entry” claim—see [section 3](#) for additional insight.



This email markets the loan as completely risk-free, but fails to disclose important information about the terms and conditions of the loan, such as interest rates, fees, repayment terms, and penalties for late or missed payments. Even if the loan itself is less risky than others in the market, it can’t be promised to be 100% risk-free.



Takeaway

Exaggerated Claims

While speaking about the benefits of a product or service isn't necessarily prohibited, it should not be done so at the expense of the consumers' understanding of what they're signing up for. Marketing materials must clearly disclose applicable fees, terms, and/or conditions associated with the offer to ensure that consumers have all the necessary information to make an informed decision.



USE OF THE TERM "DISCOUNT"



USE OF THE TERM "100%"



USE OF THE TERM "NO FEES"



USE OF THE TERM "FREE"



Section 2

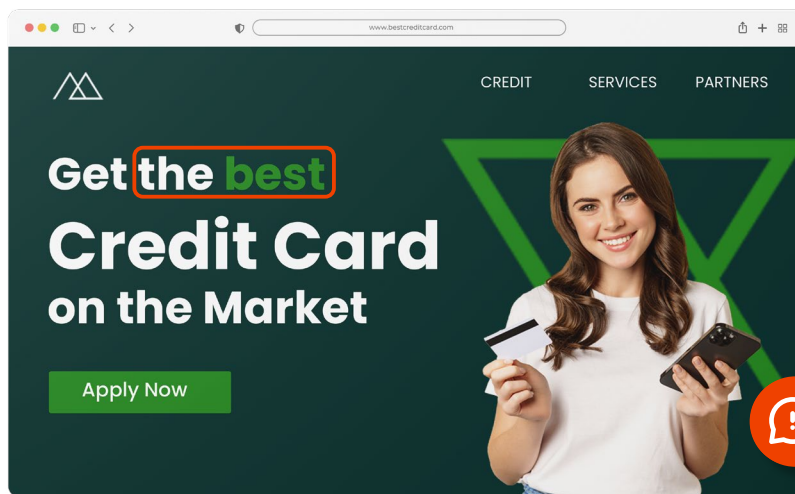
Subjective Language

Subjective language are 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.

Best

Using phrases like “the best” implies that the product being marketed is superior to all other products in the market. However, there is no objective way to determine what is “the best,” as what is considered the best for one person may not be the best for another and is based on an individual’s unique needs and situations.

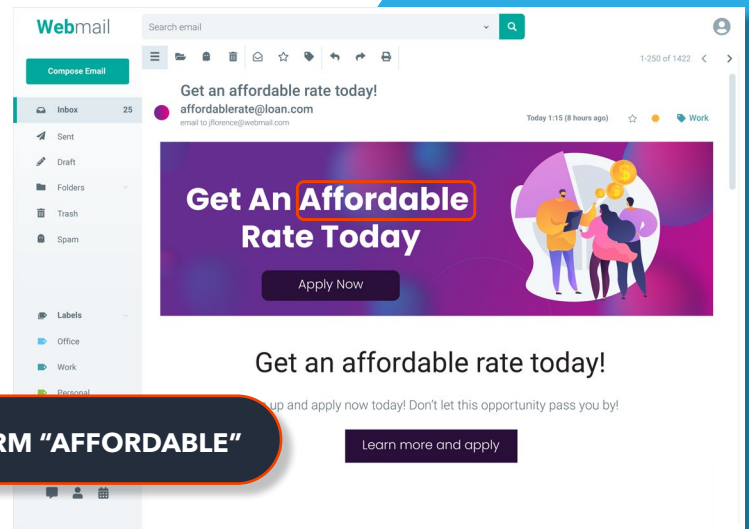


USE OF THE TERM “THE BEST”

This webpage is promoting its credit card as the best without any sort of substantiation or disclaimers, which is misleading because what’s best for one consumer might not be what’s best for another. This message also creates a false sense of superiority, which can pressure consumers into applying for the credit card without fully considering their options.

Affordable

The term “affordable” may create unrealistic expectations for the consumer because what’s affordable for some may not be for others. What’s considered “affordable” is highly subjective and can vary depending on the consumer’s financial situation, so using this term without clear context or qualifications can be misleading.

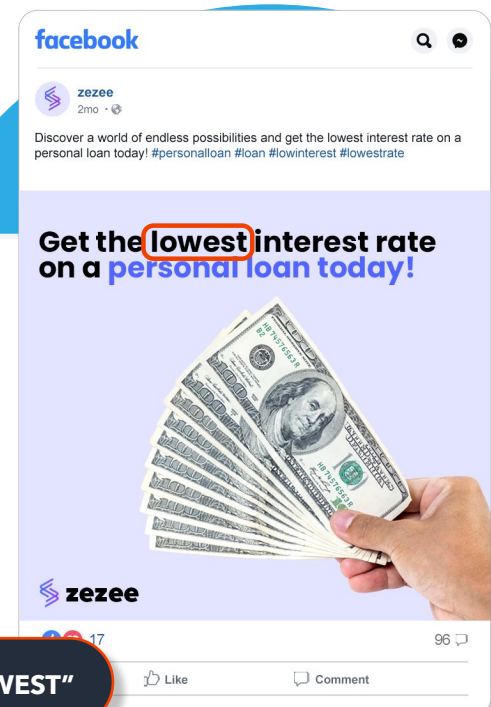


USE OF THE TERM “AFFORDABLE”

In this example, the email doesn’t provide context for what’s considered “affordable” or how the rate compares to other rates in the market, which could be misleading and give consumers an inaccurate impression of the actual cost of the product.

Lowest

Using the term “lowest” in marketing materials can be considered misleading or deceptive because it implies that the product being offered has the lowest price or rate in the market, which may not necessarily be true and is difficult to substantiate. Similarly, what’s considered “low” is subjective depending on the individual who’s reading the marketing messaging.



USE OF THE TERM “LOWEST”

This social media post suggests that this loan has the lowest interest rates compared to others, but doesn’t include any additional disclosures or context for consumers. Consumers who see this ad may assume that the personal loan being advertised is objectively the best option available to them, and will reasonably take that claim at face value without doing any additional research.



Takeaway

Subjective Language

Using vague language that leaves the definition up to the interpretation of the consumer should be avoided.

Marketing materials should aim to use clear and concise language and substantiate any claims to ensure that consumers aren't misled and that they have all the necessary information to make their decision.



USE OF THE TERM "LOWEST"



USE OF THE TERM "AFFORDABLE"



USE OF THE TERM "THE BEST"



Section 3

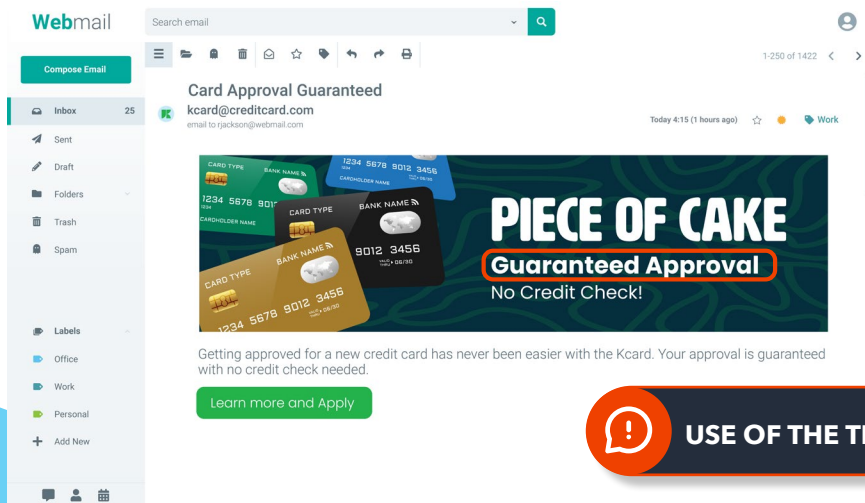
No Barrier to Entry

“No barrier to entry” claims refer to statements or descriptions that imply that there are no obstacles or requirements for consumers to obtain or get approved for a particular financial product or service.

Marketing materials that use “no barrier to entry” terms and phrases can be flagged for a UDAAP violation because it gives consumers false or unrealistic expectations. This type of messaging is particularly abusive if the marketing campaigns target vulnerable consumers, such as those with low credit scores or financial difficulties.

Guarantee

Financial products are subject to various factors, such as market conditions, changes in interest rates, and individual creditworthiness. So, a “guarantee” can create false expectations and mislead consumers about the risks associated with the product. No organization can seldom guarantee approvals for all consumers.



This email offers consumers guaranteed approval, but there are additional requirements and qualifications that have to be met before approval is actually guaranteed. If consumers are led to believe that they will be approved without question, but are later denied or subject to additional conditions, this can be considered a deceptive practice.

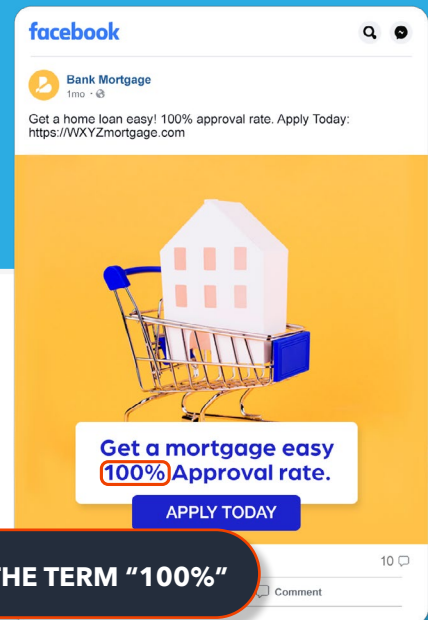
100%

Using the term “100%” in marketing materials can be deceptive if it’s used in a way to promise approval for all consumers, where that may not necessarily be true.

The term “100%” may also be considered an “exaggerated claim”—see [section 1](#) for additional insight.

In this example, the “100% approval rate” data point is true, but only for consumers with credit scores above a specific threshold. Since the post doesn’t include any additional context, disclaimer, or information about the required credit score to get approved, this can be considered a deceptive practice.

 **USE OF THE TERM “100%”**



Instant Approval

Using the term “instant approval” in marketing materials is risky because almost no one can promise approval for consumers without first looking at their financial situation, whether it’s instant or not. There are a number of different factors that are considered when it comes to approval, and organizations cannot mislead consumers by guaranteeing approval without prior analysis of their financial decisions.

In this example, the flyer promises consumers instant approval, but approval is based on the consumer’s credit history and can actually take anywhere from 2 to 5 days. Since the language on the flyer would reasonably lead a consumer to believe that they would get approved instantly, this could be considered a UDAAP violation.

 **USE OF THE TERM “INSTANT APPROVAL”**



**Takeaway****No Barrier to Entry**

Organizations should never promise any type of approval and should use clear and accurate language in their marketing materials to avoid setting false expectations for consumers. They should also disclose any limitations or conditions associated with the product or service to provide consumers with a complete and transparent picture of the features and risks.

**USE OF THE TERM "100%"****USE OF THE TERM "GUARANTEED"****USE OF THE TERM "INSTANT APPROVAL"**



Section 4

False Sense of Urgency

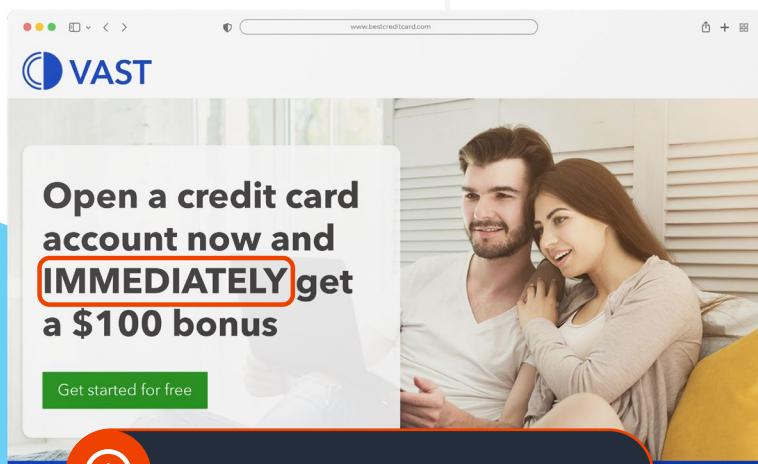
False sense of urgency language is phrases or terms that create a sense of urgency or panic in potential customers that can lead to consumers making a decision before they have had the chance to fully consider their options. This language typically is not based on actual time-sensitive information or a genuine need to take action.

False sense of urgency language could also be terms or phrases that create unrealistic expectations for consumers on how quickly they can get approval or access to a specific product.

Because consumers can be misled and manipulated into making decisions that are not actually in their best interest, this type of language is considered a UDAAP violation.

Immediately

Using the term “immediately” implies that a particular action or outcome will happen instantly, without any delay or waiting period. However, in the context of financial products, there may be certain processes and procedures that need to be followed before an action can be taken or an outcome can be achieved.



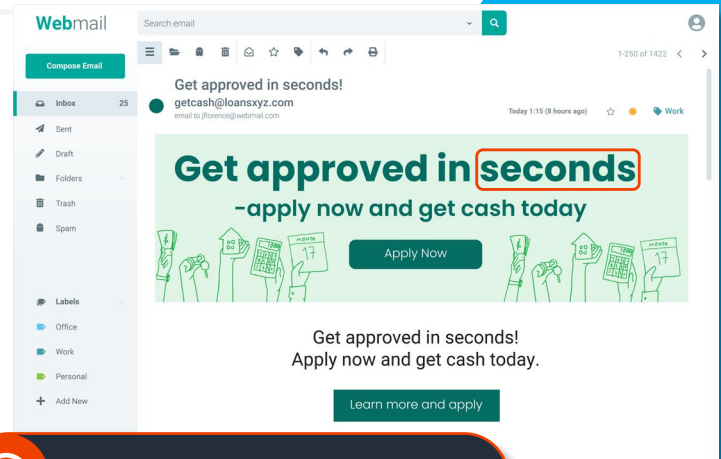
USE OF THE TERM “IMMEDIATELY”

In this example, the language used may create a false sense of urgency for and pressure on the consumer to make a quick decision, without considering the long-term consequences of opening a new credit card account. By offering an immediate \$100 bonus, the marketing material encourages the consumer to focus on the short-term gain rather than the long-term costs and benefits of the credit card.

Seconds

The term “seconds” can create a misleading impression of the speed or ease that consumers will obtain the outcome that the marketing material is promoting.

In this example, the language used suggests that the loan application process is extremely fast and easy, and that the consumer can receive cash the same day they apply. But, in reality, the loan application process involves several steps, including filling out an application, providing documentation, and waiting for the lender to review and approve the application—which takes much longer than “seconds.”



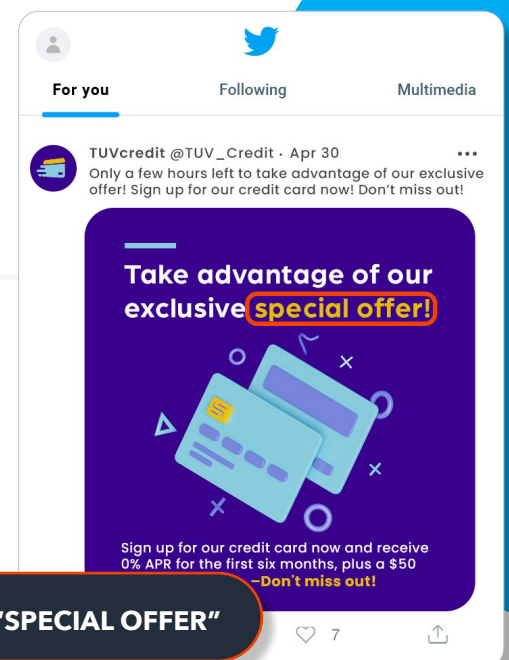
USE OF THE TERM “SECONDS”

Special Offer

The term “special offer” could be flagged as deceptive if the offer is marketed as such, but is actually available for a longer period or on a regular basis, because it could create a false sense of urgency or scarcity.

Another potential issue with “special offer” marketing is that it can encourage consumers to make impulse decisions without fully understanding the terms and conditions of the product or service being offered. This could lead to consumers signing up for financial products or services that are not in their best interest.

This post creates a false sense of urgency by implying that the special offer is only available for a limited time, but in reality, the offer is available for a longer period than what’s expressed. The post could also encourage consumers to sign up for a credit card without fully understanding the potential costs and risks associated with using credit.



USE OF THE TERM “SPECIAL OFFER”



Takeaway

False Sense of Urgency

Consumer finance companies should be cautious when using false sense of urgency language in their marketing materials and strive to be transparent and honest to provide consumers with clear and accurate information to help them make informed decisions.



USE OF THE TERM "SECONDS"



USE OF THE TERM "SPECIAL OFFER"



USE OF THE TERM "IMMEDIATELY"



Section 5

Payday

The term “payday” is a common UDAAP compliance issue that companies across all industries should be on the look out for in association with their brand, because it’s often discovered in messaging from unknown and/or oftentimes fraudulent third-party websites.

In this context, unknown external entities use brand names, logos, and information to falsely promote certain products or services as “payday” loans, quick cash, instant money, etc., and encourage consumers to apply for a loan.

The consumer thinks they’re applying for a product from a certain company, but instead, they’re giving their information to a fraudulent third party that has no relation to the brand that they are promoting.

FreeLoans.com

Home About Us FAQ How It works APPLY NOW!

PerLoana in Morristown, NJ

Payday loan in New Jersey > Payday loan in Morristown > Personal Loans >

PerLoana in Morristown, NJ

REQUEST A PAYDAY LOAN

Address: 20 South St, Morristown, NJ 07960

Phone: (512) 927-5555

Additional Information

Categories: Personal Loans in New Jersey

Service Areas: We serve the following area(s): New Jersey, Tri-state area, Vermont

USE OF THE TERM "PAYDAY"

In this example, the website uses a company’s actual name, address, phone number, etc. to make the site seem legitimate in order to persuade consumers from submitting their information.



Takeaway

Payday

This deceptive practice—even if a company wasn't aware of it—can lead to consumer harm and exposes companies to legal and regulatory risks.

Organizations should take a proactive approach to monitoring their brand across the web to find and stop any instances of brand misuse to protect themselves from UDAAP violations and regulatory scrutiny.

**USE OF THE TERM "PAYDAY"**

Additional Insights

Minimizing UDAAP Compliance Risks

Looking for more resources on UDAAP compliance and how to mitigate risk?

Hear from industry experts on topics like:

- The latest trends in UDAAP enforcement actions
- Best practices for identifying and mitigating UDAAP risk
- How to develop effective UDAAP compliance programs

[Access Now](#)



Is UDAAP keeping you up at night? **PerformLine's got you covered!**

Rest peacefully knowing that PerformLine provides an always-on platform that monitors your marketing channels to identify potential UDAAP violations in real-time. This helps you quickly remediate issues, mitigate risks, and safeguard your brand.

[Learn More](#)



PerformLine is the only technology that provides an omni-channel compliance solution across six marketing channels, including the web, calls, emails, messages, documents, and social media.

This proprietary technology, paired with ready-to-use and expertly-crafted rulebooks, takes the guesswork out of compliance and provides a solution that's automated, efficient, and scalable.

The best part? It's customizable and tailored to fit your organization's needs.

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