

The Top UDAAP Compliance Issues

Across Marketing Content | 2024 Edition

Data-driven insights and practical examples to help companies navigate UDAAP compliance issues in consumer finance marketing.

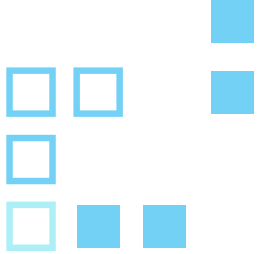


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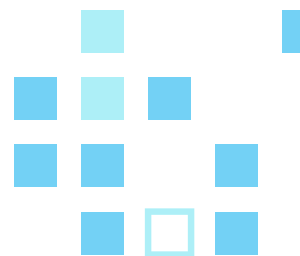
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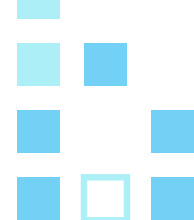
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About the Report

Methodology

PerformLine monitors thousands of marketing assets every day for UDAAP compliance using proprietary technology and expert rulebooks to search for potential violations. Assets include published content on web pages, social media posts and profiles, and marketing emails 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, social media, and email. 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.

Background

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. Unfair, deceptive, or abusive acts or practices (UDAAP or UDAP) can cause significant financial injury to consumers, erode consumer confidence, and undermine the financial marketplace. 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 state and federal regulators, including the Consumer Financial Protection Bureau (CFPB), the Federal Deposit Insurance Corporation (FDIC), and the Federal Trade Commission (FTC). These enforcement actions can include 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.

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, deceptive, or abusive, 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:

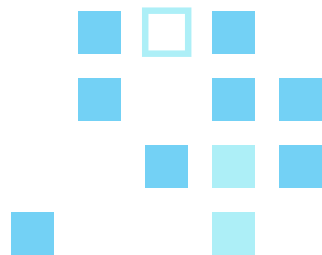
- It causes or is likely to cause substantial injury to consumers
- The injury is not reasonably avoidable by consumers
- The injury is not outweighed by countervailing benefits to consumers or to competition

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

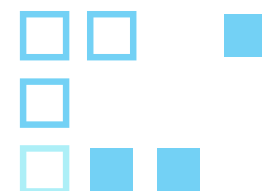
Abusive - An abusive act or practice:

- 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 01

Exaggerated Claims

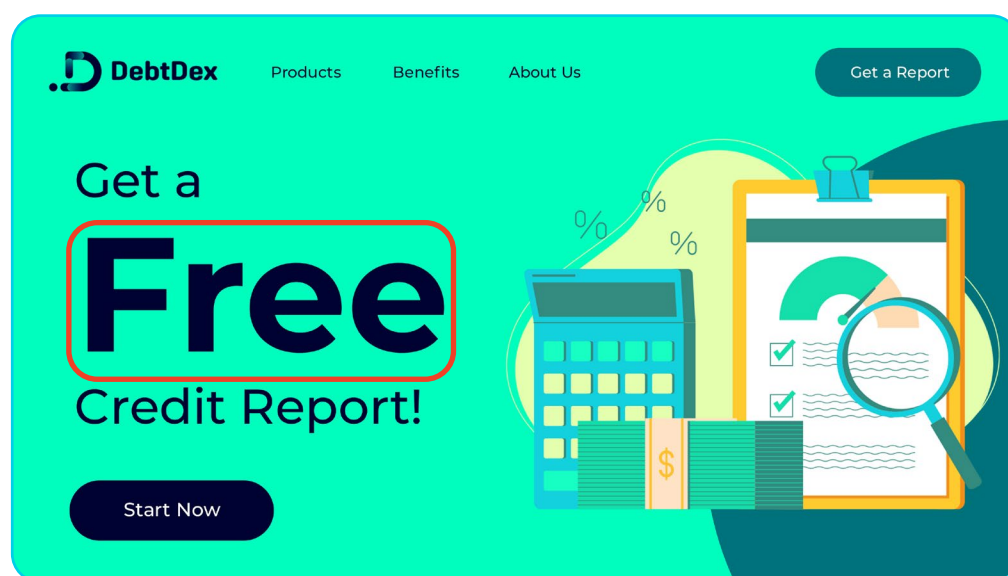


Exaggerated claims in marketing materials for financial products refer to statements that are not entirely truthful or accurate and are designed to make the product or service appear more attractive or valuable than it actually is.

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.

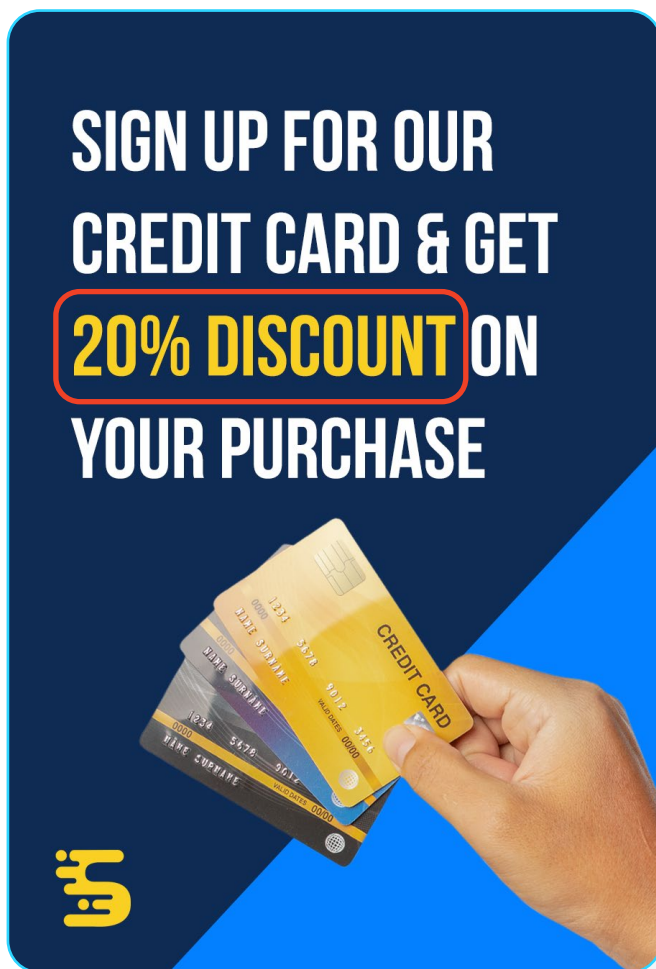


Use of the term “FREE”

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 disclose that stipulation, which may deceptively lead to a consumer signing up without fully understanding the associated fees.

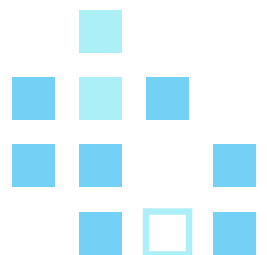
Discount

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.



Use of the term “DISCOUNT”

This credit card company is advertised as offering a “discount” on purchases if they 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.



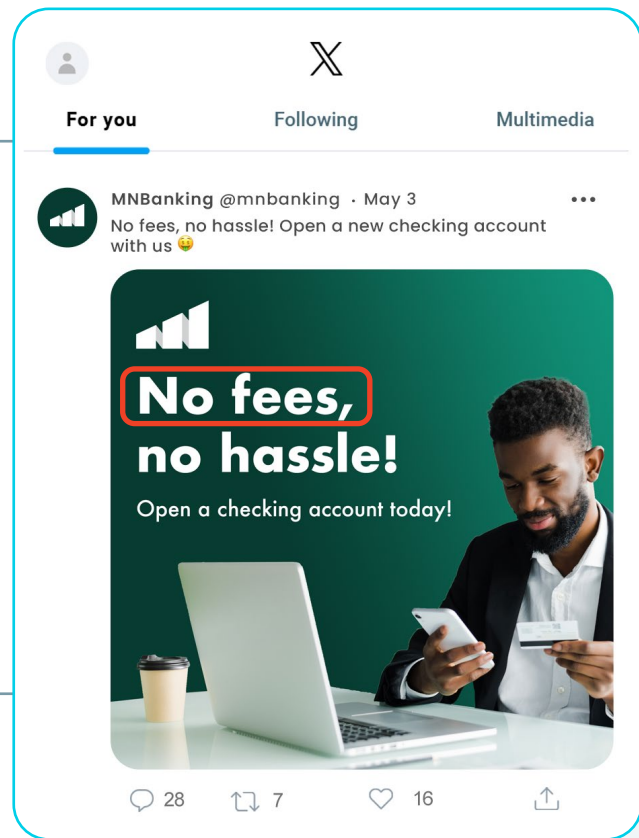
No Fees

Using the phrase “no fees” in marketing materials may be risky if 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.



Use of the term “NO FEES”

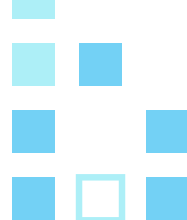
This bank is offering a checking account with “no fees,” which is partially true—they don’t charge maintenance fees for their checking accounts. However, there are still fees with other services, such as overdrafts, stop payments, or wire transfers. As a result, consumers may reasonably believe that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



Takeaway

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.

Credit Deception

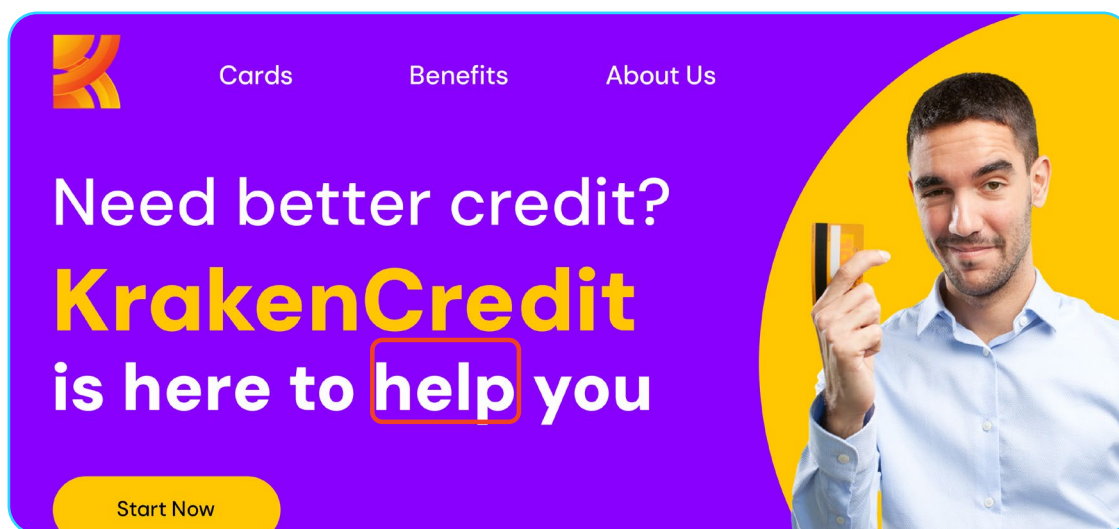


Credit deception refers to terms or phrases within proximity to the word “credit” that might imply that might the advertised product can positively influence or repair a consumer’s credit score or history more effectively than it actually can.

This type of language can lead to UDAAP compliance violations because it can lead consumers to believe that a product or service has certain financial benefits or capabilities that it does not actually have, potentially leading them to make poorly informed financial decisions based on these deceptive claims.

Help

The term “help” can be misleading if it suggests that a financial product or service can assist in improving a consumer’s financial situation (e.g., credit score, debt relief) without clearly disclosing the conditions, costs, or potential negative consequences. This may lead to consumers making decisions that are not in their best interest, based on unrealistic expectations.

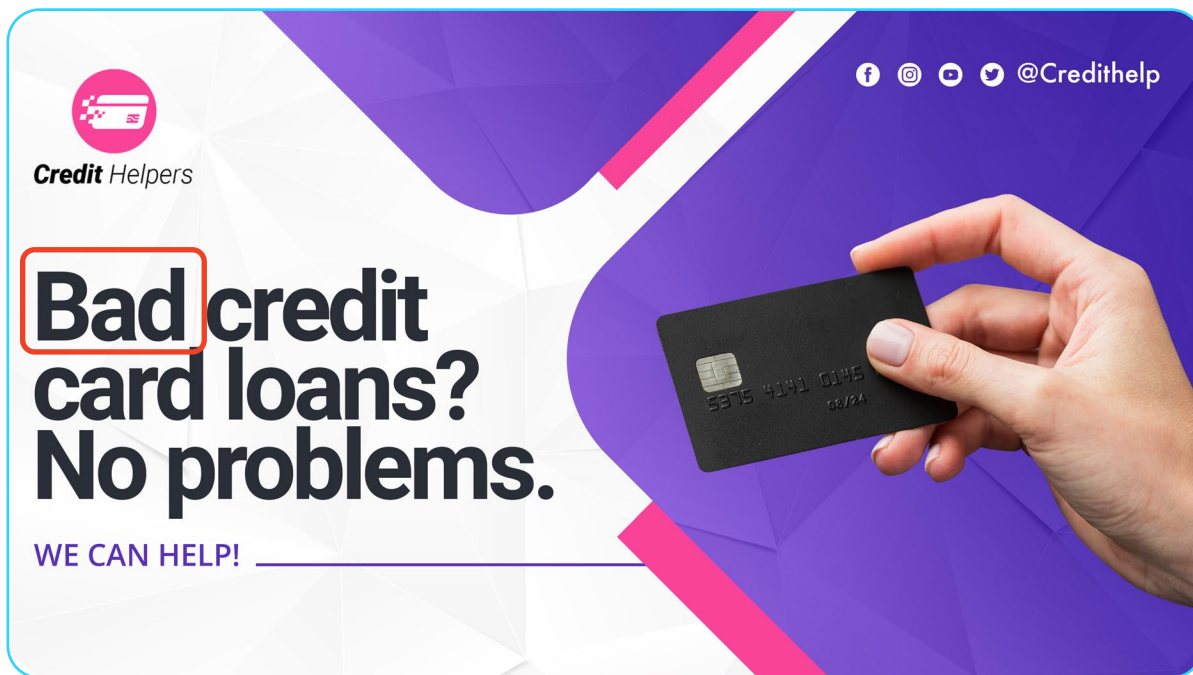


Use of the term “HELP”

This web page is advertising that the credit card can help improve consumer’s credit, specifically speaking to those with less-than-perfect credit scores. But, the web page fails to disclose that only those who get approved for the credit card can experience improved credit. This lack of transparency could mislead consumers into believing the card will automatically enhance their credit, leading them to apply for a credit card they might not have otherwise.

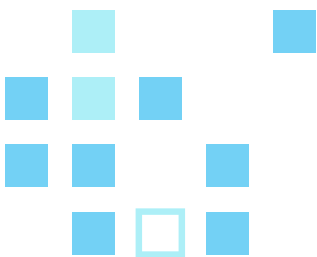
Bad

Using “bad” in a context that describes a consumer’s financial situation (e.g., bad credit) and then promising a quick or easy fix can be deceptive because it exploits consumers’ concerns or desperation about their financial status. If the advertised solution does not have a significant, positive impact or if it could potentially worsen the consumer’s financial standing, the marketing is considered harmful and misleading.



Use of the term “BAD”

This web page targets consumers with “bad” credit and offers a seemingly easy solution. But, obtaining a car loan isn’t as easy as the landing page makes it out to be. Loans are still subject to approval, but consumers can easily be misled into believing they can get approved easily and quickly fix their bad credit with a loan.



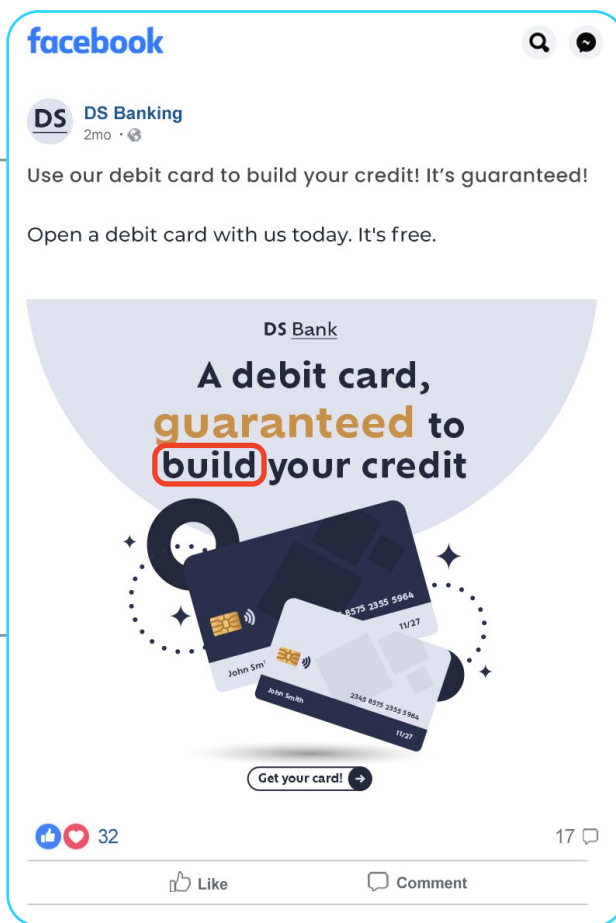
Build

If a product or service is marketed with promises to “build” credit without disclosing the requirements, limitations, or costs involved, consumers might be led to believe they can achieve a higher credit score more easily or quickly than is realistically possible, which can be particularly deceptive if the service offers minimal benefit or could lead to negative financial outcomes.



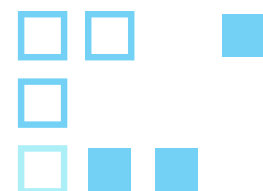
Use of the term “BUILD”

This social media post suggests that using a debit card will improve the user’s credit, which can be misleading as debit card activity does not typically impact credit scores. By guaranteeing credit-building benefits without disclosing limitations or requirements, the ad may deceive consumers into making financial decisions based on unrealistic expectations.



Takeaway

Marketing materials should never make false promises or implications that a particular product or service can boost or fix credit score, especially without proper disclosures in place. If a product does have the potential to improve credit, it should be promoted with caution, and proper terms and conditions must be clearly stated and made available to consumers.



SECTION 03

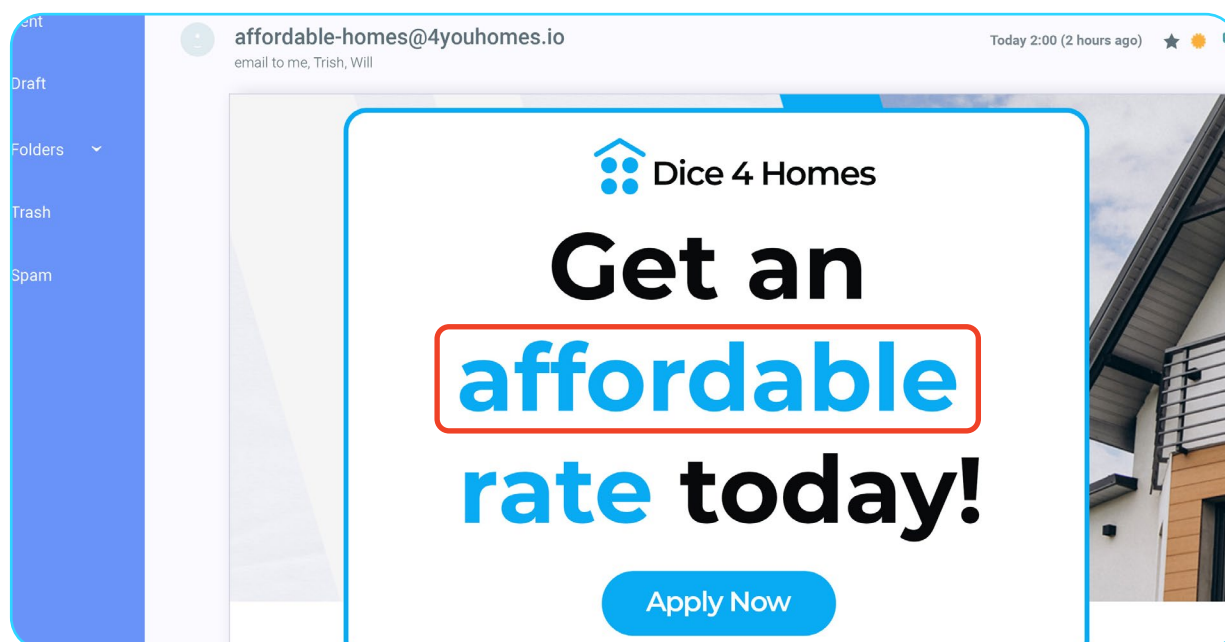
Subjective Language

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.

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.

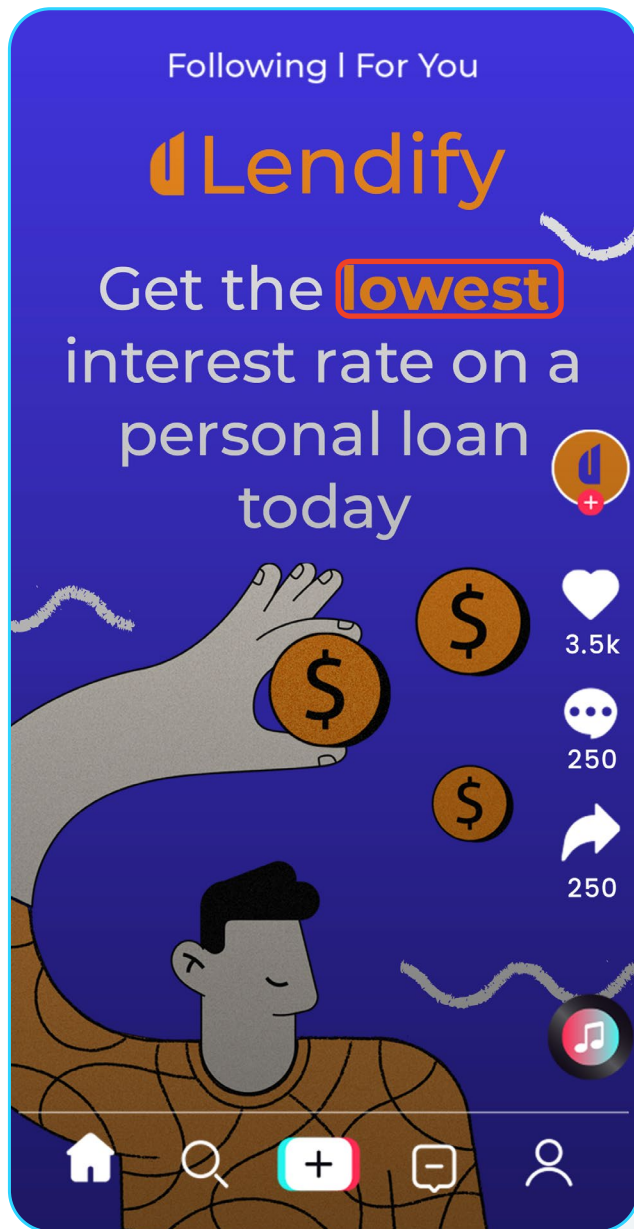


Use of the term “AFFORDABLE”

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.

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 “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.



Takeaway

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.

SECTION 04

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.

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.

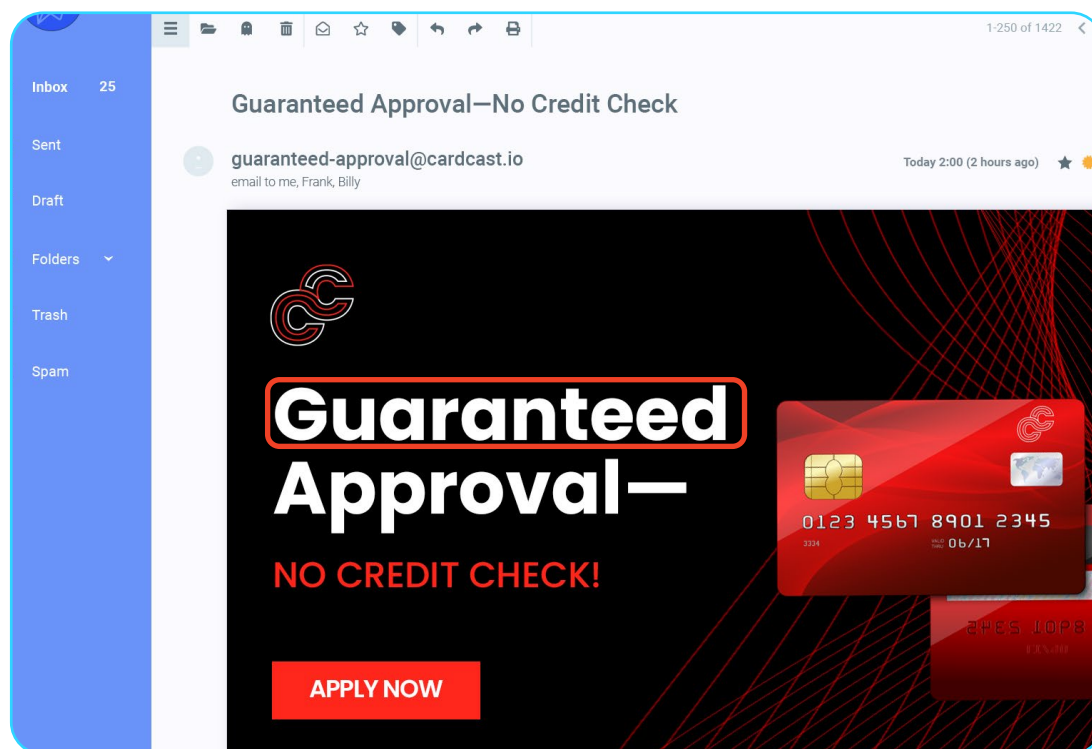


Use of the term “INSTANT APPROVAL”

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.

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. Organizations can seldom guarantee approvals for all consumers.

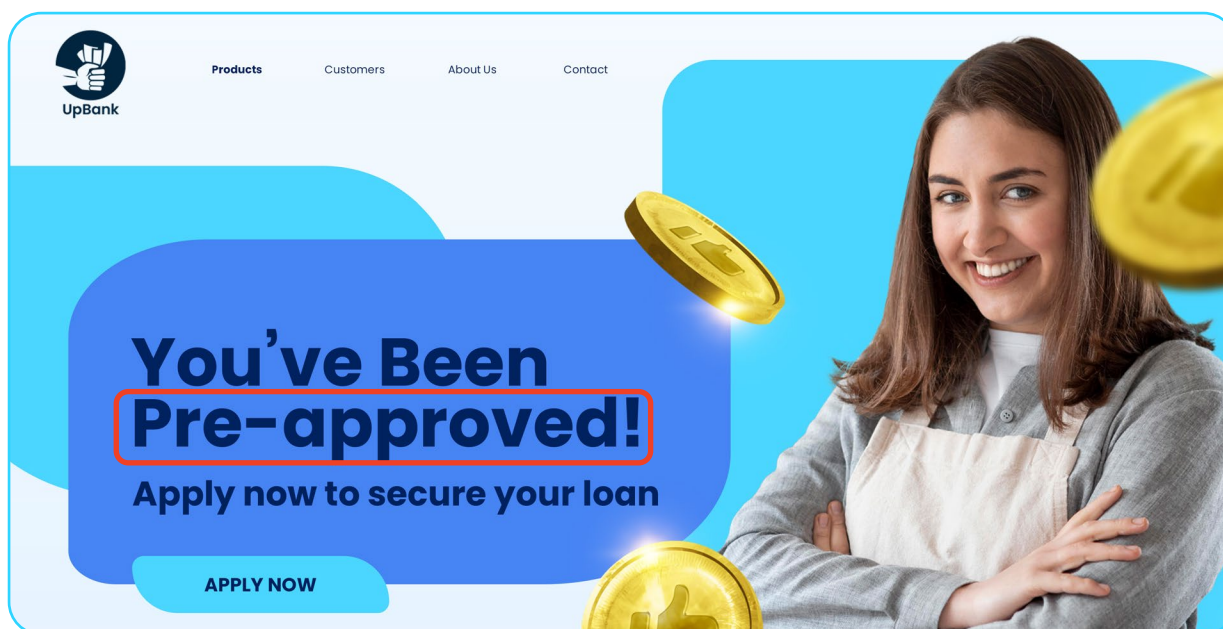


Use of the term “GUARANTEED”

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.

Pre-Approved

The term “pre-approved” could be flagged for a UDAAP violation because it implies guaranteed access to a financial product without any further requirements, potentially misleading consumers about the ease of approval. This can be especially deceptive when targeting vulnerable individuals, creating false expectations and potentially leading to financial decisions based on incorrect assumptions.



Use of the term “PRE-APPROVED”

This web page says that the consumer is pre-approved—some consumers may receive pre-approval for loans, but not everyone qualifies. This may mislead consumers into applying for loans unsuitable for them, potentially harming their credit scores due to unnecessary inquiries.

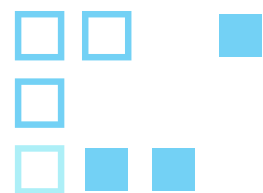


Takeaway

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.

SECTION 05

False Sense of Urgency

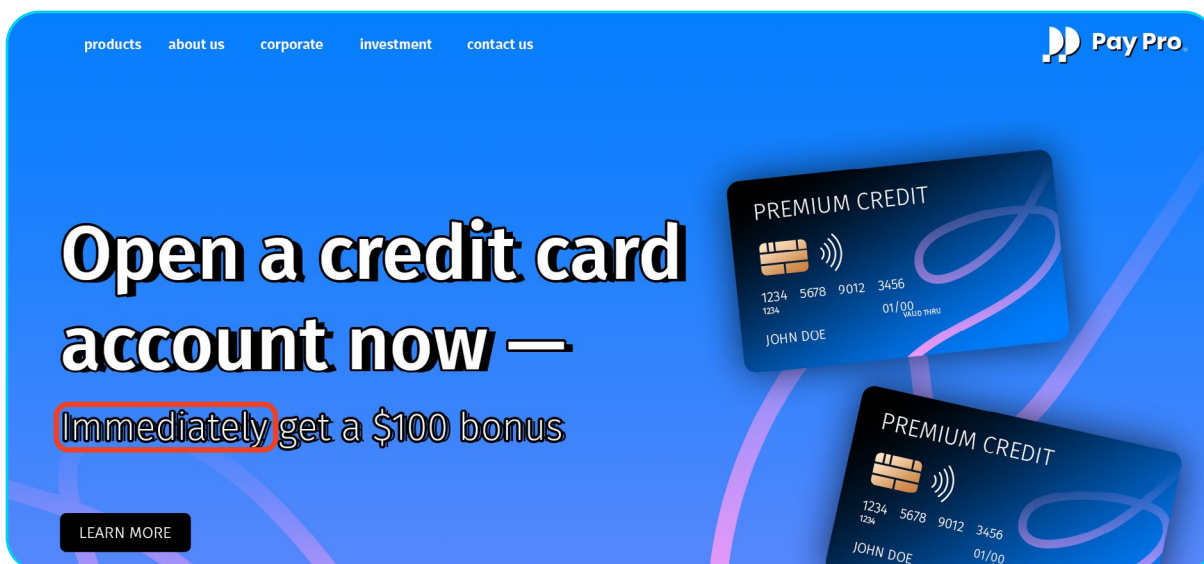


False sense of urgency language is phrases or terms that create a sense of urgency or panic in potential customers that can lead to consumers making a decision before they have had the chance to fully consider their options. This language typically is not based on actual time-sensitive information or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

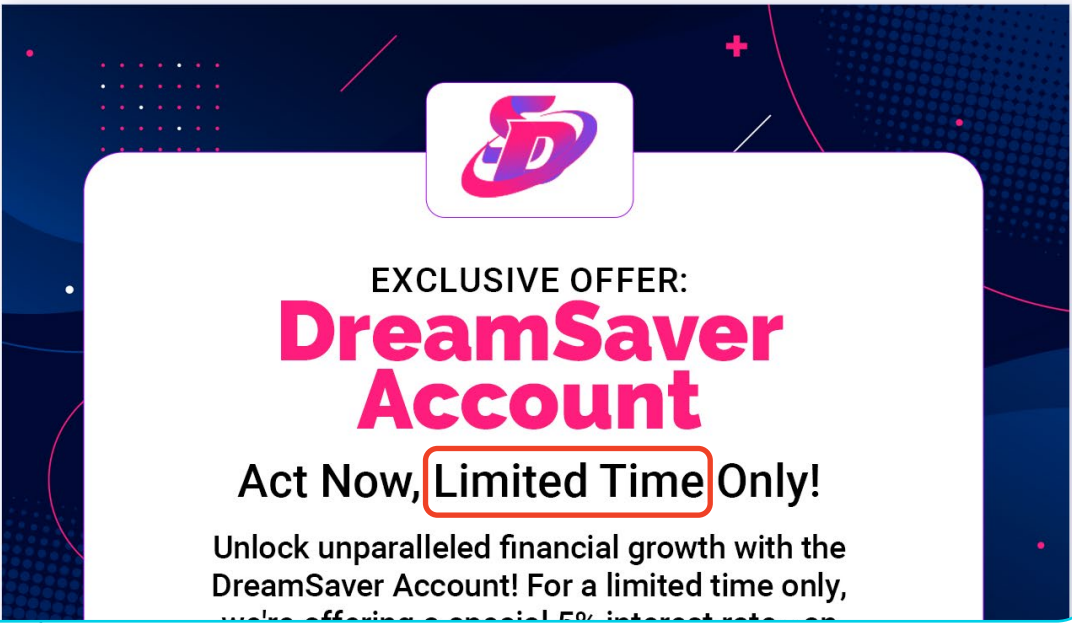
Limited Time or Offer

This phrase creates a false sense of scarcity, misleading consumers into thinking they must act quickly to benefit from an offer. If the limitation isn't based on actual constraints, it manipulates consumers into making rushed decisions that they might not have made otherwise or that aren't in their best interest.


Exclusive Offer: DreamSaver Account

limited-offers@dreamsaver.io
email to me, Rachel, Gary

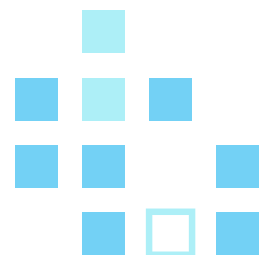
Today 2:00 (2 hours ago) ★ 🌟 📧



EXCLUSIVE OFFER:
DreamSaver Account
Act Now, Limited Time Only!
Unlock unparalleled financial growth with the DreamSaver Account! For a limited time only, we're offering a special 5% interest rate on...

 **Use of the term "LIMITED TIME"**

In this email, the use of the phrase "limited time only" without specifying the duration creates a false sense of urgency. Consumers might be misled into believing they need to act fast to take advantage of the offer, fearing they might miss out. This tactic can pressure consumers into making quick financial decisions without giving them sufficient time to consider their options or shop around for better deals.



Urgent

The term “urgent” could pressure consumers to act immediately, suggesting negative consequences for inaction. When the urgency is artificial and not based on a real need, it manipulates decision-making and can be considered abusive as it exploits psychological responses to urgency.



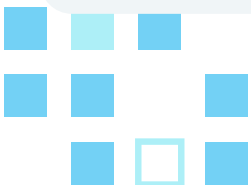
Use of the term “URGENT”

In this example, the loan offer is labeled as an “urgent” notice can mislead consumers into believing they must act quickly or miss out, which manipulates their decision-making process. This can be seen as a deceptive practice because it creates a false sense of scarcity and urgency where there may be none. Such tactics can unfairly pressure consumers into agreeing to terms they might not fully understand.



Takeaway

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.

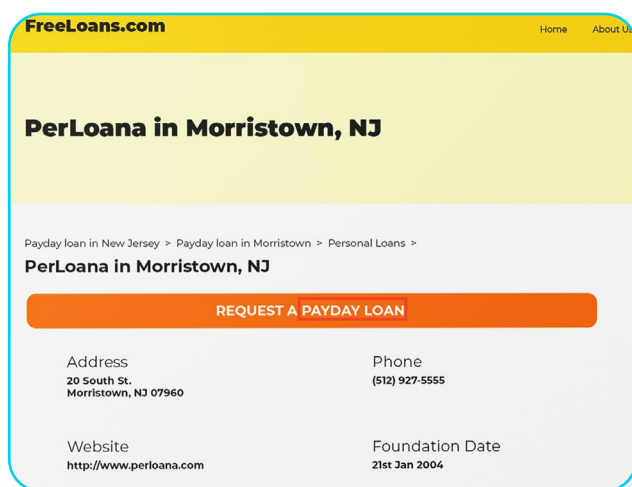


SECTION 06

Payday

The term “payday” is a common UDAAP compliance issue that companies across all industries should be on the lookout 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.



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 to persuade consumers into submitting their information.



Takeaway

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.



Looking for visibility into your marketing materials for UDAAP compliance?

PerformLine's compliance solutions allow organizations to review marketing materials before they're published to prevent potential UDAAP violations proactively. Then, our always-on compliance platform continually monitors your marketing channels to catch potential UDAAP violations in real-time so you can quickly remediate issues, mitigate risk, and protect your brand.

Learn more about how PerformLine can help your organization proactively identify and mitigate UDAAP compliance risks across marketing channels before they become a bigger issue.

Mitigate UDAAP Compliance Risk



Access More Free UDAAP Resources

Take a look at our resource library that's jam-packed with helpful info, insights, and best practices for everything UDAAP compliance.

Don't forget to share it with your compliance team, marketing team, sales team, and any other teams that communicate with consumers!

[**Learn About UDAAP Compliance**](#)



