

# Marketing Compliance and Enforcement Actions Quarterly Review

Q2 2024

PerformLine’s Marketing Compliance and Enforcement Actions Quarterly Review offers a focused look at the latest data and trends that impacted consumer finance companies in Q2 of 2024. Powered by our in-depth compliance monitoring and industry analysis, this review provides essential insights to help businesses effectively navigate the evolving regulatory landscape.

## Enforcement Actions at a Glance

**12**

Enforcement Actions\*

**\$71M**

In Monetary Fines

**\$43M**

Highest Single Enforcement  
Action Fine

**33%**

Enforcements Taken by  
State Regulators

\*Note: These numbers only include enforcement actions that have been finalized. There are still several complaints, consent orders, and other actions that are pending.

In Q1 of 2024, federal and state regulators finalized 12 enforcement actions against consumer finance companies, totaling over \$71 million in monetary fines.

The highest monetary fine from a single enforcement action was \$43 million, taken by the Federal Trade Commission against a financing company for misleading consumers about financing terms and rates.

33% of all finalized enforcement actions came from state regulatory agencies, specifically New York, Massachusetts, and Virginia

## Notable Enforcement Actions, Consent and Settlement Orders, and Complaints

Note: These notable actions include some that are still awaiting final orders.

### Key Themes



**Deceptive advertising and marketing practices**



**Misleading "free," "unlimited," and similar claims**



**Misleading representations and brand misuse**

## Bill payment company used brand names and logos to falsely represent affiliations and trick consumers

**Regulatory Agency:** Federal Trade Commission (FTC)

**Total Penalty Amount:** TBD

**Regulatory Issue(s):** UDAAP, Dark Patterns

**Summary:** The FTC took action against a bill payment company for UDAAP and dark patterns. The company purchased search engine ads to mislead consumers into believing that it was affiliated with the companies which consumers owe bills to. The company also prominently featured billers' names and logos on its landing pages despite lacking formal relationships or affiliations.

The company also used a deceptive process to sign consumers up for its recurring subscription program that would automatically check a box to sign consumers up. The company continued to engage in these deceptive practices despite tens of thousands of consumer complaints.



### Enforcement Action

This complaint is still pending, but the FTC is requesting that the Court:

- ! Enter a permanent injunction to prevent future violations
- ! Monetary penalties for consumer relief

### PERFORMLINE PERSPECTIVE



What you don't know can hurt you—brand monitoring is critical. Learn more about this enforcement action and how PerformLine can help [here](#).

## Major wireless carriers deceptively marketed “unlimited” plans and “free” devices

**Regulatory Agency:** 50 State Attorneys General

**Total Penalty Amount:** \$10.25M

**Regulatory Issue(s):** Deceptive Advertising

**Summary:** All 50 states took joint action against major wireless carriers for deceptive advertising practices related to their wireless plans. The carriers misled consumers with claims of "unlimited" data plans that had undisclosed limitations, "free" phone offers with hidden costs, and monetary incentives to switch networks that lacked clear disclosures.



### Enforcement Action

The settlement requires the carriers to:

- ❗ Ensure future advertisements are truthful and non-misleading
- ❗ Appoint a dedicated employee to work with the attorneys general to address complaints
- ❗ Train its customer service representatives to comply with these terms and implement a program to ensure compliance

### PERFORMLINE PERSPECTIVE



This multi-state action underscores the importance of transparent and non-misleading marketing materials. All organizations should be extra cautious when making claims related to “unlimited,” “free,” or similar terms.

## Bank engaged in deceptive practices regarding VA loans

**Regulatory Agency:** FDIC

**Total Penalty Amount:** \$3.4M

**Regulatory Issue(s):** UDAAP, Deceptive Advertising

**Summary:** The FDIC took action against a bank for misrepresenting to consumers that certain Veterans Administration (VA) refinance loan terms were available when they were not. Consumers were deceived into refinancing their VA loans, were overcharged, and did not receive the loan products promised.

Additionally, the bank failed to provide required disclosures and inaccurately reported data under the Home Mortgage Disclosure Act (HMDA).



### Enforcement Action

The settlement requires the bank to:

- ! Pay \$1.5 million civil money penalty
- ! Pay \$1.9 million in consumer remediation

## Fintech deceptively advertised zero-cost loans and used dark patterns

<b>Regulatory Agency:</b>	CFPB
<b>Total Penalty Amount:</b>	TBD
<b>Regulatory Issue(s):</b>	UDAAP, Dark Patterns

**Summary:** The CFPB took action against a fintech company for deceptively advertising their loans as “zero-interest” or “0% APR,” when in reality, many of these loans carry an average APR of 36% or higher. The company also used dark patterns on its site to trick consumers into making “donations” by defaulting to the option and hiding the “no donation” option.



**Enforcement Action**

**While still ongoing, the CFPB is seeking to have the company:**

- ❗ Stop unlawful conduct
- ❗ Forfeit money received due to dark patterns
- ❗ Pay redress to harmed consumers
- ❗ Pay a civil money penalty

### PERFORMLINE PERSPECTIVE



PerformLine’s omni-channel compliance monitoring software can help companies discover and monitor any deceptive or misleading claims related to their brand across the web, social media, and marketing emails.

## Recent Regulatory Updates

### The CFPB's funding structure was ruled constitutional by the Supreme Court

Nearly two years after the Fifth Circuit Court of Appeals ruled that the CFPB's funding mechanism was unconstitutional, the Supreme Court rejected the challenge and ruled it constitutional.

**IMPACT:** The CFPB plans to go full steam ahead with enforcement actions and other regulatory updates that were paused. Organizations should prepare for increased regulatory activity and scrutiny by the Bureau.



**Expert Insight:** "I think we're going to see a step up in public regulatory and enforcement actions. This may include more frequent issuance of circulars, proposed rules, and other things, using UDAAP as the justification."

– Jonathan Pompan, Venable LLP

### The CFPB's late fee rule was blocked, but is now headed back to court

On May 10th, the CFPB's credit card late fee rule was blocked by a federal judge, citing the pending Supreme Court decision—which subsequently was made two days later, ruling in favor of the CFPB.

**IMPACT:** Consumer finance companies must stay vigilant and prepared for potential changes in the regulatory landscape regarding the late fee rule. While the rule is still pending, having a plan in place to be able to comply with this regulation (or any others that might be passed in the future) is crucial.

#### PERFORMLINE PERSPECTIVE



PerformLine revolutionizes how companies manage regulatory updates by automating and streamlining the process of discovering and monitoring content across the web. [Learn more](#) about how we helped leading organizations prepare for regulatory updates (like the CFPB's late fee rule) within 48 hours or less.

## BNPL products will be regulated the same as credit cards

The CFPB issued an interpretive rule confirming that buy now, pay later products are credit card providers and, therefore, must provide consumers some key legal protections and rights that apply to conventional credit cards. These include disputing purchases, refunding for returned or canceled products and services, and providing periodic billing statements

**IMPACT:** Companies offering buy now, pay later products will need to align their marketing strategies and compliance efforts with credit card regulations, ensuring all required consumer protections and disclosures are clearly communicated.

## Federal regulators issued updated third party risk management guidance

The Federal Reserve, FDIC, and OCC provided updated guidelines to help banks manage the risks of working with third-party organizations like fintechs, adding more specific details and clarifications.

**IMPACT:** Financial institutions must ensure their marketing partnerships with third parties, such as fintech companies, comply with the new guidelines to mitigate risks, avoid regulatory scrutiny, and protect consumers.

### PERFORMLINE PERSPECTIVE



This guidance emphasizes the importance of ensuring third parties comply with consumer protection laws and regulations. [Learn more](#) about how PerformLine can help banks follow best practices as outlined in the guidance, specifically focusing on consumer protection and marketing compliance.



## The FDIC's updated advertising rule went into effect on April 1st, 2024

The updated rule addresses how both insured institutions and nonbanks are required to use FDIC insurance disclosures and logos across all banking advertising channels—including digital websites, landing pages, and mobile applications—to better align with how banking is done today. The official compliance date is January 1, 2025.

**IMPACT:** Both banks and their non-bank partners must ensure that their advertising materials correctly display FDIC insurance disclosures and logos across all digital platforms.



**Expert Insight:** “For non-banks offering a financial product or service in connection with a bank, you have to be very clear to consumers about who that bank is and what their role in the process is. There are also issues with companies that might offer a mix of products or services, where some are FDIC insured and some are not. You can't conflate the two; you have to be very clear on which ones are insured and which ones are not insured.”

– Brian Serafin, Weiner Brodsky Kider PC

## The CFPB is establishing a registry to detect and deter repeat offenders

The CFPB finalized a rule to establish a registry to detect and deter corporate offenders who have broken consumer protection laws and to identify repeat offenders and recidivism trends.

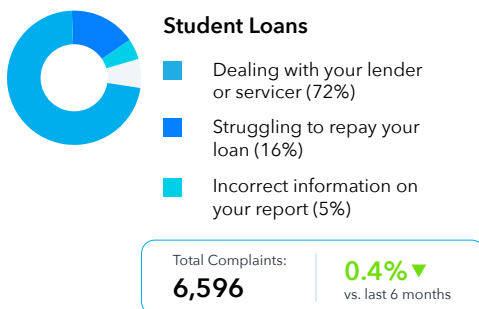
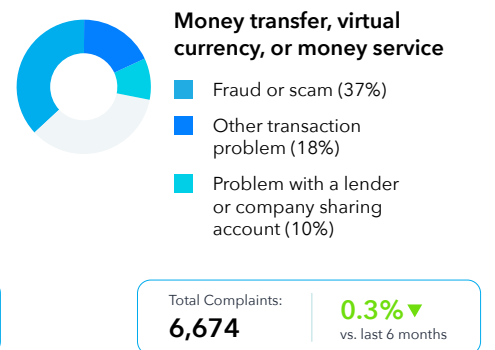
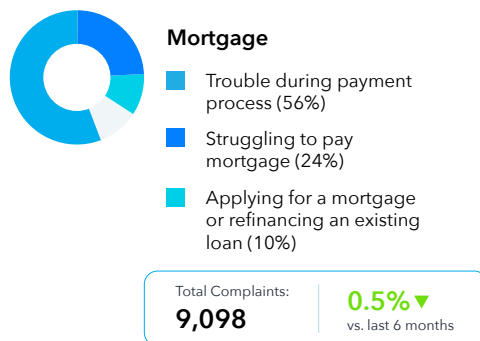
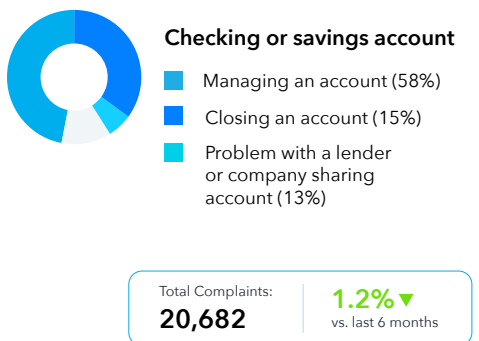
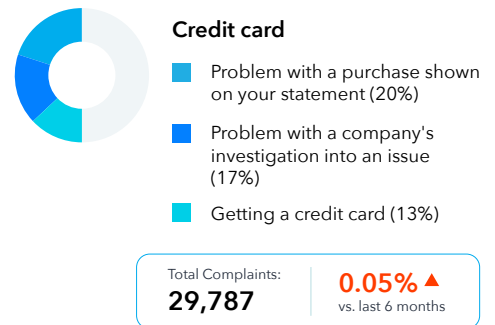
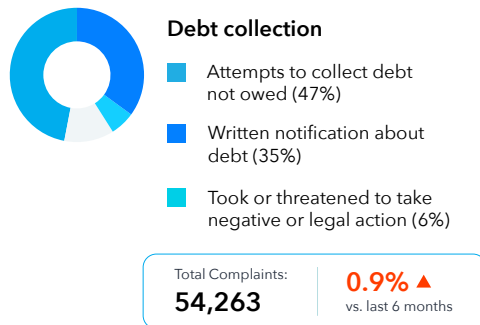
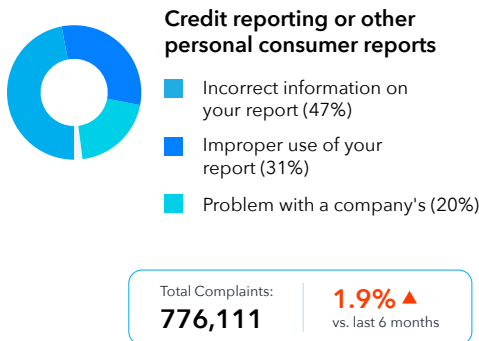
**IMPACT:** The CFPB is cracking down on those who harm consumers. Consumer finance companies need to strengthen their compliance programs and marketing practices to avoid enforcement actions and, in turn, avoid being listed in the CFPB's registry.

# Consumer Compliant Snapshot

Consumer complaints can help organizations develop a deeper understanding of the challenges consumers face in the marketplace to optimize compliance programs and proactively get ahead of risk.

➤ In 2024 so far, over **986K+ complaints** have been submitted to the CFPB. This is a **70% increase** from the same time period last year.

## Top Product Complaints and Issues



# Most Common Compliance Issues

## How are these compliance issues identified?

PerformLine reviews, monitors, and flags hundreds of thousands of marketing assets each day for potential compliance violations. PerformLine’s rulebooks are carefully curated collections of terms and phrases that are associated with specific compliance categories, regulations, laws, and guidelines that organizations use to monitor marketing content against to identify potential compliance violations at scale. These rulebooks cover everything from broad compliance concerns (like UDAAP) to industry or product-specific requirements.

**The below compliance issues were the most commonly flagged and remediated within the PerformLine platform in Q2 of 2024**

### 1. Disclosures

Disclosures include any information that lenders are required to include on their websites, social media profiles and posts, or other marketing materials regarding their products. Assets are flagged if any of the required disclosures are missing. This is most commonly identified in the mortgage industry but is applicable to other industries as well.

**Common terms include:**

Corporate ID, NMLS #s, Company URL

### 2. Offer Inflation

Offer inflation—also referred to as exaggerated claims—refers 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.

**Common terms include:**

Free, the best, discount, no fees

### 3. Instant Approval

“Instant approval” language includes any phrases that would imply that all consumers would be approved for a specific product immediately and without any barriers to approval. The compliance issue with “instant approval” is promising that not all consumers can be guaranteed to be approved for said product.

**Common terms include:**

Instant approval, immediate funding, approval in seconds

### 4. Credit Check

Credit check language includes any phrases that mention credit checks in relation to applying for a product or service. Specifically, this includes any language that would imply that applying would not impact a consumer’s credit, which is an issue if that isn’t entirely true.

**Common terms include:**

No hard credit check, no hard inquiry, doesn’t affect your credit

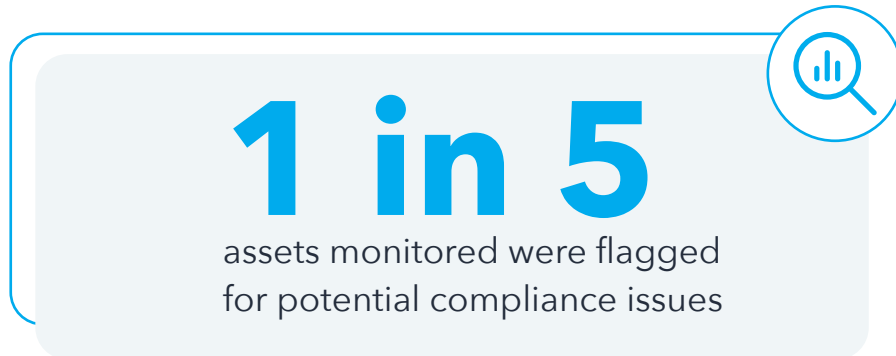
### 5. Payday

The term “payday” is often used by fraudulent third-party websites to falsely promote products or services as payday loans, quick cash, or instant money. These sites misuse brand names, logos, and information, tricking consumers into thinking they’re applying for a legitimate loan from a known company. In reality, consumers are giving their information to a fraudulent third party with no connection to the brand.

**Common terms include:**

Payday, title loans, cash advance

## Compliance Benchmark Stats



In Q2 of 2024, PerformLine monitored 5.3M assets and flagged 1.1M of those for a potential compliance issue.

Assets refer to a specific marketing item or communication, such as a document, web page, social media post, email, call, or message.

When an asset is flagged, it means that the PerformLine platform has identified a potential compliance issue that needs to be reviewed and, if needed, remediated.

### Work more efficiently with technology

Technology and automation helps make marketing compliance more streamlined and efficient. Here are some ways we've helped leading organizations find success.

**90%**

reduction in document compliance review time

**60%**

more compliance oversight across the web

**48 hrs**

turnaround time to identify 7.6k+ web pages requiring compliance updates

## Navigating Compliance Challenges with PerformLine

At PerformLine, our mission is to empower marketing and compliance leaders with the technology and knowledge to ensure that their organization and partners provide accurate and compliant information to consumers across any channel.

### Here's how we're helping leading organizations mitigate marketing compliance risk while increasing efficiency:



#### **TIME SAVINGS**

on hours spent manually searching and reviewing marketing materials for compliance



#### **COST SAVINGS**

by identifying compliance issues and allowing for quick remediation before they turn into investigations or enforcement actions



#### **AUTOMATED DISCOVERY**

of unknown brand mentions, product promotions, across marketing channels to find potential compliance issues



#### **COMPREHENSIVE COVERAGE**

and oversight across marketing channels, products, and partners at scale through automated technology

Get ahead of emerging compliance risks and challenges with PerformLine.

[Get a Personalized Demo](#)