Consumer Financial Services Bites of the Month - September 16, 2026 - "September Song."

September 23, 2026 | Justin B. Hosie, Eric L. Johnson and Kristen Yarows

In this month's article, we share some of our top "bites" covered during the September 2026 webinar.

Bite 10: FTC Seeks Comments on Personalized Pricing Policy Statement

On August 18, 2026, the FTC announced that it is seeking public comment on an enforcement policy statement regarding personalized pricing. The policy statement explains that while the FTC does not have statutory authority to prohibit personalized pricing outright, the FTC intends to enforce the law aggressively against any deceptive or unfair personalized pricing practices that violate Section 5 of the FTC Act or any other law enforced by the FTC. According to the policy statement, retailers may deceive consumers in violation of Section 5 when they represent, either expressly or by implication, that a price is static or widely offered when in fact it is personalized. Retailers may also violate Section 5 when they mislead consumers as to the basis for the personalization of a price or the effect of that personalization. According to the FTC, to "be effective, personalized pricing disclosures should be clear and conspicuous and include all relevant information, such as the fact that the price is personalized, the basis of that personalization, and the type of data used." On September 3, the FTC announced that it extended the public comment period by a week, so now the public can submit comments on the policy statement until September 25, 2026.

Bite 9: CFPB Joins Other Agencies to Rescind Statement on ECOA

On August 25, 2026, the CFPB along with the FDIC, National Credit Union Administration, Department of the Treasury, Office of the Comptroller of the Currency, Department of Housing and Urban Development, DOJ, and Federal Housing Finance Agency published an interagency rescission of the interagency statement on special purpose credit programs under the Equal Credit Opportunity Act and Regulation B in the Federal Register. The original interagency statement was issued in February 2022, under the Biden administration, and encouraged creditors to develop special purpose credit programs ("SPCPs") under ECOA and Reg. B. According to the agencies, the rescission of the interagency statement was necessary to ensure that creditors do not rely on it to engage in discriminatory activities that are inconsistent with ECOA, Reg. B, and to the extent applicable, the Fair Housing Act. The rescission of the interagency statement is effective immediately.

Bite 8: FTC Announces New Guidance Program

On September 10, 2026, the FTC's Bureau of Consumer Protection announced a new guidance program in an effort to "enhance transparency, strengthen understanding of Commission requirements, and equip businesses and industry groups with additional tools to comply with the law." The program allows stakeholders to submit issues for consideration that pose "genuine ambiguities in the Commission's rules, substantive conflicts between a rule and an existing statute or other rule, or other significant issues that may exist within Commission rules." The Bureau of Consumer Protection will determine whether and when to address submitted issues. The Bureau of Consumer Protection will not respond to questions that can be answered by reviewing the text of the rule, existing plain-language business guidance, or formal advisory opinions. The FTC notes that guidance from staff is not a substitute for a business's own legal or compliance responsibilities, nor is it binding on the Commission or the public.

Bite 7: House Fin. Serv. Committee Introduces CFPB Reform Legislation

On September 1, 2026, the House Committee on Financial Services introduced the Consumer Financial Protection Accountability and Reform Act of 2026 (H.R. 10184). The Committee asked for public feedback on a discussion draft of the legislation in late July. According to the Committee, the bill is intended to: (1) restore accountability and transparency to the CFPB by bringing the CFPB into the regular congressional appropriations process, establishing a dedicated inspector general, and strengthening the transparency and rigor of its rulemaking process; (2) provide clear statutory guardrails by clarifying the CFPB's authority, strengthening due process, and establishing more predictable standards for supervision and enforcement; (3) promote innovation and competition by reducing duplicative examinations and supervision; and (4) establish a more predictable approach to federal oversight by clarifying the CFPB's currently vague statutory authorities, strengthening due process, and establishing more predictable standards for supervision and enforcement.

Bite 6: OIG Releases Report on CFPB Workforce and Contract Actions

On August 26, 2026, the Office of Inspector General ("OIG") published a report addressing how the CFPB's functions have been impacted by the CFPB's workforce actions and contract actions. The OIG conducted this review after it received multiple congressional requests between February and April of 2025. The OIG found that the stop-work orders issued in February 2025 temporarily halted most CFPB functions, including pausing supervisory events, 80 investigations, and requiring approval from the Chief Legal Officer to proceed with ongoing litigation cases that had urgent deadlines. During the time covered by the OIG's review, the CFPB dismissed eighteen ongoing litigation cases that it had previously filed and withdrew as plaintiff in one ongoing litigation case. The employee and contractor stop-work orders and contract actions related to the consumer complaint database resulted in a backlog of about 16,400 consumer complaints that required manual routing, or about 3.5% of the total of about 475,100 complaints that the CFPB received in March 2025. The review did not assess whether the actions complied with applicable laws, regulations, or policies. The report includes a four page Appendix E outlining the CFPB's "Management Response," signed by Victoria Dorfman, General Counsel for the CFPB highlighting examples of the CFPB's work during that time, noting that the temporary pause in early 2025 was "transitory and necessary to ensure a successful realignment of the" CFPB's "focus and priorities," and noting that the report did not account for the CFPB's "bold and aggressive agenda and the extensive work it has done to correct the misguided approach of the prior administration."

Bite 5: FTC and Connecticut Settle with Auto Dealer for $4 million

On August 19, 2026, the FTC and state of Connecticut announced a settlement with a Connecticut-based auto dealer, its owners, and its managers, to resolve claims of allegedly deceptive fees. The FTC and state of Connecticut filed the lawsuit in January of 2024, alleging that the dealership double-charged consumers to "certify" used vehicles that the dealership had already advertised as being "certified pre-owned." The complaint also alleged that the dealership inserted other charges, such as total loss protection, into the financing agreements without the consumers' knowledge or consent. The FTC noted that price "transparency is essential for protecting consumers from deception and for preserving the integrity of competitive markets." Under the proposed order, the defendants will pay $4 million to be used for consumer redress. The proposed order also requires the defendants to clearly and conspicuously disclose as the most prominently displayed item, the maximum total price a consumer must pay for a vehicle, excluding only required government charges. It also requires "express, informed consent" for optional products and services, all fees charged, and such consent to particular products and services.

Bite 4: FTC Takes Action Against Three Marketing Companies

On August 27, 2026, the FTC announced that it finalized orders against three marketing companies to resolve allegations that they deceived customers by falsely claiming to offer an AI-powered service that could target localized advertisements based on conversations captured from consumers' smart devices. The companies claimed their "active listening" branded marketing service listened in on consumers' conversations overheard by smart devices, in real time, to target advertising. The companies claimed that this service would allow small businesses to advertise to consumers in the small businesses' desired locations. The companies did not actually use voice data to target consumers with localized advertisements. According to the complaints, instead, the service merely consisted of reselling email lists obtained from other data brokers. In the press release, the FTC notes that if the service had functioned as advertised, the collection and use of consumers' voice data without adequate consent would itself violate the FTC Act. The FTC announced and published the three complaints in May 2026. The FTC received two comments on the proposed settlement orders, and the Commission voted 2-0 to give final approval to the consent agreements. One company will be required to pay $880,000, while the other two companies will each be required to pay $25,000. The companies are also prohibited from making any misrepresentation about the qualities or features of their advertising or marketing services.

Bite 3: FTC Takes Action Against Payment Processor

On September 4, 2026, the FTC announced a settlement with a Canada-based payment processor and its subsidiaries to resolve allegations that it opened and maintained payment processing accounts for merchants that it knew or should have known were engaged in deception. The complaint alleged that the company processed more than $30 million in consumer payments for a company that was conducting an offshore tech support scam from 2017 to 2023. The complaint also alleged that the payment processor's US-based subsidiary opened and maintained merchant accounts for merchants allegedly selling business opportunities with false or baseless earnings claims, merchants impersonating government tax authorities, and merchants that other payment processors terminated for excessive chargebacks or fraud. Christopher Mufarrige, Director of the FTC's Bureau of Consumer Protection said that "Consumers deserve a payment system that is competitive, transparent and fortified against fraud—and we will take action anytime those standards are threatened." The FTC's claims were based on violations of the prohibition on unfairness in the FTC Act as well as violations of the Telemarketing Sales Rule. Under the proposed order, the company will pay $4.85 million, which will be used to provide consumer redress. The company will be required to screen and monitor its existing and prospective clients, including clients in certain merchant categories such as outbound telemarketing, and conduct enhanced screening and investigation of any existing client whose chargeback rates exceed the limits set forth in the order.

Bite 2: FTC Takes Action Against Payment Processor - Round 2

On September 8, 2026, the FTC announced a settlement with a payment processor to resolve allegations that the company processed payments for merchants that defrauded consumers. The settlement requires the company to pay $12 million in consumer redress and permanently bans the company from processing payments for merchants with a heightened risk of potential fraud. The FTC's complaint alleges that the company processed payments for more than 1,000 merchants that were shell entities serving as either fronts or pass-throughs for fraudulent companies engaged in unauthorized billing scams. The complaint alleges that from 2021 through 2023, the company processed over $100 million through the sham merchant accounts. The FTC alleges that the payment processing company processed payments for a company that the FTC shut down in 2024 for allegedly defrauding consumers. The FTC alleges that the company opened these sham accounts despite red flags indicating that the merchants were shell entities and typically incurred chargebacks at rates that were almost ten times higher than what credit card brands view as excessive.

Bite 1: DOJ Takes Action Against Social Media Platform over COPPA Allegations

On August 21, 2026, the Department of Justice announced a $400 million settlement with a large online social media platform to resolve allegations concerning compliance with the Children's Online Privacy Protection Act ("COPPA") and its implementing regulations. The DOJ filed the lawsuit in August of 2024, alleging that the companies knowingly allowed children who identified themselves as being under age 13 to create accounts without parental notice or consent. The complaint also alleged that the companies failed to honor requests from parents who wanted their children's accounts deleted, and also failed to delete accounts even when the companies knew the accounts belonged to children under age 13. The complaint was filed in the U.S. District Court for the Central District of California by the DOJ's Civil Division Enforcement and Affirmative Litigation Branch on referral from the FTC. The DOJ's press release noted that since it filed the complaint in 2024, the companies have "undergone significant changes to its ownership, management, compliance functions, and privacy practices." The companies will pay $300 million immediately and an additional $100 million upon entry of an order vacating a prior consent decree against one of the company's predecessor. The DOJ noted that this is one of the largest recoveries ever obtained in a COPPA case.

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