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Hudson Cook Enforcement Alert: FTC and 22 States Sue Large E-Commerce Company Over Alleged Secret Advertising Surcharges

September 1, 2026 | Michael A. Goodman and Taylor A. Krowitz

HIGHLIGHTS

- The Federal Trade Commission ("FTC"), joined by the attorneys general of 22 states, sued an e-commerce company, alleging it engaged in unfair and deceptive practices by secretly increasing the prices businesses paid for advertising on its platform.
- The FTC alleges that the Company engaged in unfair and deceptive practices, in violation of the FTC Act, by imposing undisclosed surcharges that caused advertisers to pay higher advertising costs in auctions, which in turn led to consumers paying higher prices.
- The complaint alleges that the practice affected more than one million advertisers, including more than 500,000 small and medium-sized businesses, and generated tens of billions of dollars in additional revenue for the Company.

CASE SUMMARY:

On August 31, 2026, the FTC and the attorneys general of 22 states filed suit against a large e-commerce company (the "Company") in the U.S. District Court for the Western District of Washington. The FTC alleges that the Company secretly manipulated its advertising auctions for more than seven years, causing advertisers to pay higher prices than they otherwise would have paid under the auction methodology the Company represented it was using. The FTC alleges that the conduct violated the FTC Act's prohibition on unfair or deceptive acts or practices and caused advertisers to pay tens of billions of dollars more than they overwise would have paid. The 22 joining states have asserted similar violations of their respective consumer protection or UDAP laws.

According to the complaint (which redacts details about the Company's business practices), the Company represented to advertisers that it used a generalized "second price" auction. Under that model, the winning advertiser generally pays an amount based on the next-highest competing bid rather than its own maximum bid. The Company allegedly told advertisers that the winner would pay approximately one cent more than the next-highest bidder.

The FTC alleges that the Company, beginning in approximately 2019, introduced an undisclosed "soft reserve price" that increased the amount winning advertisers were required to pay. According to the complaint, the Company used a "proxy" second price or an "invented auction participant" to increase prices beyond what could be achieved through actual auction, effectively converting the Company's "second price" auction into a first-price auction, causing advertisers to bid more aggressively.

The complaint alleges that the practice became increasingly prevalent over time. For sponsored advertisements, the FTC alleges that the percentage of auctions in which advertisers paid their own winning bids increased from approximately 30% to 40% in 2021, to approximately 70% in 2022, and to approximately 80% in 2024. The FTC further alleges that the Company deliberately concealed the pricing changes because disclosure would cause advertisers to lower their bids and reduce the Company's advertising revenue. The complaint also alleges that the Company increased surcharges during high-volume shopping periods, which resulted in consumers paying higher costs for the goods being advertised.

The FTC and the states are seeking a permanent injunction on the Company's auction model and monetary relief. The Company, in a separate press release on its website, denied the FTC's claims of advertiser overpayment, instead asserting that advertisers have actually saved money as a result of the Company's auction practices.

RESOURCES:

You can review all of the relevant administrative filings and press releases at the FTC's Enforcement Page.

- Press Release
- Complaint
- Company Response

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