

Regulatory Oversight Newsletter — November 2024

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Regulatory Oversight Blog

Make sure to visit Troutman Pepper's [Regulatory Oversight](#) blog to receive the most up-to-date information on regulatory actions and [subscribe](#) to our mailing list to receive a monthly digest.

Regulatory Oversight will provide in-depth analysis into regulatory actions by various state and federal authorities, including state attorneys general and other state administrative agencies, the Consumer Financial Protection Bureau (CFPB) and the Federal Trade Commission (FTC). Contributors to the blog will include attorneys with multiple specialties, including regulatory enforcement, litigation, and compliance.

Podcast Updates

UNVEILING THE IMPACT: HOW GEORGIA'S OPEN RECORDS ACT AFFECTS PRIVATE BUSINESSES

By [Stephen C. Piepgrass](#) and [David Dove](#)

In this episode of *Regulatory Oversight*, Stephen Piepgrass is joined by his colleague David Dove to discuss a recent Georgia Supreme Court decision that significantly impacts private companies under Georgia's Open Records Act.

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ENHANCING COMPLIANCE: THE POWER OF INDEPENDENT MONITORSHIPS IN CONSUMER PROTECTION

By [Ashley L. Taylor, Jr.](#)

In this episode of *Regulatory Oversight*, Ashley Taylor is joined by Vincent DiCianni, founder of Affiliated Monitors, and Kevin Lownds, deputy chief of the Medicaid Fraud Division at the Massachusetts Attorney General's office, to discuss the value and application of independent monitorships by federal and state agencies, especially in consumer protection and health care fraud cases.

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Financial Services Updates

NEW JERSEY ATTORNEY GENERAL RELEASES REPORT ON REPUBLIC FIRST BANK'S UNLAWFUL REDLINING PRACTICES

By [Chris Carlson](#), [Lane Page](#), [Joseph Reilly](#), [Lori Sommerfield](#), and [Chris Willis](#)

On October 29, New Jersey Attorney General Matthew Platkin and the state's Division on Civil Rights (DCR) released a [report](#) detailing the findings of a multi-year investigation into Republic First Bank (Republic) and its alleged mortgage redlining practices. According to the report, the investigation revealed that Republic engaged in a pattern or practice of redlining against Black, Hispanic, and Asian communities in New Jersey, in violation of the New Jersey Law Against Discrimination.

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CFPB AND MASSACHUSETTS AG WIN \$50M JUDGMENT AGAINST CREDIT REPAIR SERVICES COMPANY

By [Troutman Pepper State Attorneys General Team](#)

A federal district judge in Massachusetts entered a nearly \$51 million judgment against Commonwealth Equity Group LLC (d/b/a Key Credit Repair) and its CEO after granting summary judgment in favor of the Consumer Financial Protection Bureau (CFPB) and Massachusetts Attorney General (AG) Andrea Campbell. The lawsuit alleged that the company violated federal and state consumer protection and telemarketing laws. The company and CEO were found jointly liable for \$31.7 million in restitution and each ordered to pay more than \$19 million in penalties.

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MINNESOTA ATTORNEY GENERAL SHUTS DOWN DEBT SETTLEMENT COMPANIES

By [Stefanie Jackman](#), [Chris Carlson](#), and [David N. Anthony](#)

On October 21, Minnesota Attorney General Keith Ellison [announced](#) a settlement with two debt settlement companies, Financial Solutions Group and Accelerated Debt Settlement.

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THE OCC AND ILLINOIS ATTORNEY GENERAL FILE OPPOSING BRIEFS ON INTERCHANGE FEE PROHIBITION ACT

By [Glen Trudel](#)

On October 2, the Office of the Comptroller of the Currency (OCC) filed an [amicus brief](#) in the U.S. District Court

for the Northern District of Illinois in support of several banking associations' motion for a preliminary injunction against the Illinois Interchange Fee Prohibition Act (IFPA). The IFPA, signed into law in June 2024, prohibits credit or debit card issuers and any other entities involved in processing electronic payments from charging an interchange fee on the tax or gratuity portions of a transaction. Additionally, the Act, which is set to take effect in July 2025, restricts banks and other entities from using transaction data for purposes other than processing the transaction, except as required by law. Several banking associations quickly challenged the Act, seeking a preliminary injunction to prevent its implementation. They argue that the IFPA is preempted by federal law, unconstitutional, and invalid.

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STATES JOIN COLORADO IN DEFENSE OF INTEREST RATE OPT-OUT LAW

By [Troutman Pepper State Attorneys General Team](#) and Nick Gouverneur*

On September 20, 13 states and Washington, D.C. joined Colorado in its appeal asking the Tenth Circuit to uphold a state law imposing more restrictive interest rate caps on loans from out-of-state banks to residents, arguing that U.S. District Judge Daniel D. Domenico's injunction "disrupts [] careful Congressional balancing and will allow online lenders to flout usury laws."

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Compliance Updates

PRIVATE BUSINESSES HAVE NEW EXPOSURE UNDER THE GEORGIA OPEN RECORDS ACT

By [David Dove](#)

In a landmark decision, the Georgia Supreme Court has expanded the Georgia Open Records Act (the Act) to include private businesses and contractors working with state and local government entities. The ruling in *Milliron v. Antonakakis* clarifies that public records held by nongovernment entities are subject to the same transparency requirements as government agencies. Consequently, businesses in sectors like construction, IT, health care, and consulting must navigate the Act's complexities to avoid liability. This article explores the court's decision and offers practical steps for compliance. For more insights, listen to our latest *Regulatory Podcast* episode, "[Unveiling the Impact: How Georgia's Open Records Act Affects Private Businesses.](#)"

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PENNSYLVANIA AG SUES ROBOTICS TOY COMPANY FOR ALLEGED FAILURE TO FULFILL PREPAID ORDERS

By [Troutman Pepper State Attorneys General Team](#)

In September, Pennsylvania Attorney General (AG) Michelle Henry filed a [lawsuit](#) against Pittsburgh-based [Digital Dream Labs, Inc.](#), and its CEO, Harold Jacob Hanchar, individually and in his capacity as CEO. In the lawsuit, Henry brings causes of action under the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73

P.S. § 201-1, *et seq.*, and the Federal Trade Commission (FTC) Mail Order Rule in connection with to the company's sale of certain edtech tools and small robots — namely, the Vector 2.0, Cozmo 2.0, and Butter Robot product lines.

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DOJ UPDATES GUIDANCE ON CORPORATE COMPLIANCE PROGRAMS WITH FOCUS ON AI

By Matthew Orso, [Megan Rahman](#), and [Nicole Giffin](#)

On September 23, Principal Deputy Assistant Attorney General Nicole M. Argentieri [announced](#) that the U.S. Department of Justice (DOJ) updated its guidance on the [Evaluation of Corporate Compliance Programs \(ECCP\)](#). The DOJ's ECCP serves as a roadmap for federal prosecutors to use when evaluating the effectiveness of corporate compliance programs. Therefore, companies should also pay close attention to this guidance when reviewing their compliance programs. Ultimately, a company's efforts to design, regularly evaluate, and update its compliance program in line with this guidance could inform criminal investigations, charging decisions, and case resolutions.

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Advertising + Marketing Updates

NORTH CAROLINA AG SUES TIMESHARE COMPANY FOR UNSOLICITED ROBOCALLING

By [Troutman Pepper State Attorneys General Team](#)

On October 18, North Carolina Attorney General (AG) Josh Stein filed a complaint against timeshare company Club Exploria, LLC, for allegedly using robocall machines to make unsolicited calls to consumers.

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COMPANY ENTERS \$10M SETTLEMENT TO RESOLVE DECEPTIVE ADVERTISING CLAIMS

By [Troutman Pepper State Attorneys General Team](#)

Illinois Attorney General (AG) Kwame Raoul entered a settlement with Teleperformance Colombia SAS, TPUSA Inc., and Teleperformance SE (collectively, Teleperformance). The agreement resolves allegations that Teleperformance engaged in deceptive marketing practices in violation of the Consumer Fraud and Deceptive Business Practices Act and the Telephone Solicitations Act.

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False Claims Act Updates

PRECISION TOXICOLOGY AGREES TO PAY \$27M OVER DRUG TESTING AND KICKBACK ALLEGATIONS

By [Troutman Pepper State Attorneys General Team](#)

On October 15, Maryland Attorney General Anthony G. Brown announced that his office reached a \$27 million settlement with Precision Toxicology to resolve allegations that it submitted false claims to government health programs for medically unnecessary urine drug tests and provided illegal kickbacks to physicians.

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Cybersecurity + Data Privacy Updates

INDIANA APPELLATE COURT GRAPPLES WITH STATE AGS' PERSONAL JURISDICTION OVER DIGITAL PLATFORMS

By [Ryan J. Strasser](#) and [Chris Carlson](#)

This article was originally published on October 25, 2024 in [Westlaw Today](#). It is republished here with permission.

Ryan Strasser, Chris Carlson, and Nick Gouverneur of Troutman Pepper Hamilton Sanders LLP discuss how state attorneys general and courts are addressing the question of personal jurisdiction over technology companies.

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FEDERAL CYBERSECURITY REQUIREMENTS OUGHT NOT BE IGNORED BY CONTRACTORS

By [Hilary Cairnie](#), [Timothy McHugh](#), [Bonnie Gill](#), and [Daniel Waltz](#)

1. The Real Risk of Cybersecurity: Choosing to be Unaware

Since 2016, the federal government has implemented numerous procurement regulations and associated contract clauses to address cybersecurity by requiring contractors to adopt various controls and standards to protect sensitive, unclassified information, and to harden information technology (IT) systems to make them more resilient to all manner of cyber hacks. The easy part (not that it was at all easy) was developing the controls and standards – NIST SP 800-171 (currently up to Rev. 3), and contract clauses (most notably, FAR 52.204-21, and DFARS 252.204-7012, 7019, 7020, 7021, and others). The difficult part is getting contractors to take seriously the obligation to invest in cybersecurity.

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THE RISE OF STATE ATTORNEY GENERAL PRIVACY ENFORCEMENT

By [Gene Fishel](#) and Whitney Shephard

This article was originally published on October 2, 2024 in [Westlaw Today](#). It is republished here with permission.

Gene Fishel and Whitney Shephard of Troutman Pepper highlight states with established privacy enforcement units, discuss the corresponding privacy acts in those states, and give recommendations for companies to mitigate

risk and navigate a rapidly developing patchwork of regulatory standards.

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Gaming Updates

KENTUCKY AG CLARIFIES LEGAL STATUS OF GRAY MACHINES AND RISK-FREE-PLAY DEVICES – IMPLICATIONS FOR THE INDUSTRY

By [Troutman Pepper State Attorneys General Team](#)

Gambling machines in Kentucky have recently come under increased scrutiny following the enactment of [House Bill 594](#), which amended the definition of “gambling device” under Kentucky law, effective June of last year. The law significantly impacts the legality of certain gaming devices, requiring industry participants to adjust their product offerings within the state.

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Tobacco Updates

CLASS ACTION LAWSUIT ALLEGES PUFF BAR VIOLATED STATE CONSUMER PROTECTION LAWS

By [Bryan Haynes](#) and [Nick Ramos](#)

A consumer class action lawsuit has been [filed](#) in the U.S. District Court for the Southern District of New York against EVO Brands, LLC and PVG2, LLC, both doing business as Puff Bar. The lawsuit alleges that Puff Bar violated state consumer protection laws by engaging in deceptive marketing practices aimed at youth, and by misleading consumers about the legality and safety of their synthetic nicotine e-cigarettes.

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\$11M CIGARETTE DRAWBACK DISPUTE COULD HAVE SIGNIFICANT CONSEQUENCES FOR FTZ IMPORTERS

By [Michael Jordan](#) and [Bryan Haynes](#)

In August, North Carolina-based cigarette importer, King Maker Marketing Inc., challenged a decision by U.S. Customs and Border Protection (Customs) that rejected its claims for more than \$11 million in drawback duties as untimely.

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Cannabis Regulatory Updates

STATE VS. FEDERAL JURISDICTION: CONNECTICUT’S RECENT BATTLE OVER INTOXICATING HEMP-DERIVED PRODUCTS

By Jean Smith-Gonnell and [Cole White](#)

Introduction

The interplay between the unintentional federal legalization of intoxicating hemp-derived products under the Agriculture Improvement Act of 2018 (the 2018 Farm Bill) and state regulatory frameworks is increasingly testing the limits of jurisdictional boundaries, as shown in a recent decision remanding a Connecticut consumer protection case against RZ Smoke, Inc. back to the Connecticut Superior Court.

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NAVIGATING THE UNCERTAIN WATERS OF MARIJUANA RESEARCH IN THE US

By Jean Smith-Gonnell and [Nick Ramos](#)

In recent years, federal and state governments have taken action to make marijuana research easier. These actions are a step in the right direction, and researchers operating in the marijuana space must be aware of the regulatory requirements that are associated with conducting such research. In this article, we discuss some of the key considerations related to conducting marijuana research.

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VIRGINIA TAKES ACTION AGAINST RETAILER SELLING THC PRODUCTS

By Jean Smith-Gonnell, Chuck Slep, and [Nick Ramos](#)

What Happened

On September 14, Virginia's Attorney General (AG) Jason Miyares issued a letter to the registered agent of the Good Vibes Shop, a Radford, VA store, for selling tetrahydrocannabinol (THC) products without proper labeling and packaging. The AG's letter alleges that the store's THC products lacked child-resistant packaging and appropriate labeling, including ingredient lists, THC content, and age restrictions, in violation of the [Virginia Consumer Protection Act](#) (VCPA). As we have recently [discussed](#), the AG's letter is part of a broader effort among states to protect consumers amid the evolving federal and state cannabis regulatory landscape.

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Stephanie Kozol, Senior Government Relations Manager – State Attorneys General, also contributed to this newsletter.

Jessica Birdsong and Nick Gouverneur also contributed to this newsletter. They are not licensed to practice law in any jurisdiction; bar admission pending.

Our Cannabis Practice provides advice on issues related to applicable federal and state law. Marijuana remains an illegal controlled substance under federal law.

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