

Staff of the Federal Trade Commission (the “FTC” or “Commission”) writes in response to the Department of Education’s (“ED”) call for comments regarding proposed regulations protecting postsecondary education students.¹ Specifically, we note that the prohibitions against misrepresentations and deceptive recruitment practices would help curb the very type of harm the FTC has encountered in its cases. Thus, we support ED’s proposal to prohibit this type of misconduct.

Given the importance and expense of education, the FTC has prioritized protecting consumers from unfair and deceptive practices in this space. Data from 2022 shows student loan debt as the second largest class of consumer debt, with over 45 million borrowers owing approximately \$1.75 trillion.² Student loan debt is also one of the most distressed classes of debt: approximately \$110.5 billion of student loans are in default.³ Student indebtedness resulting from deceptive practices can also fuel debt relief fraud, a growing area of concern.⁴

Education is also an area that draws a high volume of consumer complaints. In the FTC’s most recent annual databook on complaints, the agency reported receiving almost 20,000 complaints related to the education marketplace, generally – placing this among the 25 largest categories of consumer complaints.⁵ Moreover, law enforcement experience shows that complaints are just the tip of the iceberg.⁶

Accordingly, the FTC has brought scores of cases protecting consumers in the education marketplace, including cases involving deceptive claims by for-profit schools, deceptive lead generation practices, and bogus student loan debt relief services.⁷ For example, in 2016, the FTC

¹ This comment expresses the views of staff of the FTC’s Bureau of Consumer Protection. It does not necessarily represent the views of the Federal Trade Commission or of any individual Commissioner. The Commission has, however, voted to authorize the submission of this comment.

² Zach Friedman, *Student Loan Debt Statistics in 2022: A Record \$1.7 Trillion*, FORBES (May 16, 2022) <https://www.forbes.com/sites/zackfriedman/2022/05/16/student-loan-debt-statistics-in-2022-a-record-17-trillion/?sh=61cc7c584d5a>.

³ *Id.*

⁴ Press Release, *FTC Stops Student Loan Debt Relief Schemes that it Says Bilked Students Out of Millions* (May 8, 2023) <https://www.ftc.gov/news-events/news/press-releases/2023/05/ftc-stops-student-loan-debt-relief-schemes-it-says-bilked-students-out-millions>.

⁵ Fed. Trade Comm’n, *Consumer Sentinel Network: Databook 2022* (Feb. 2023), https://www.ftc.gov/system/files/ftc_gov/pdf/CSN-Data-Book-2022.pdf at 7.

⁶ See, e.g., *United States v. Brien*, 617 F.2d 299, 308 (1st Cir. 1980); *United States v. Offices Known as 50 State Distribution Co.*, 708 F.2d 1371, 1374-75 (9th Cir. 1983); Keith B. Anderson, Fed. Trade Comm’n, *Consumer Fraud in the United States: An FTC Study* 80 (2004), <https://www.ftc.gov/sites/default/files/documents/reports/consumer-fraud-united-states-ftc-survey/040805confraudrpt.pdf> (staff report noting consumers who reported they were victims of fraud complained to an official source only 8.4 percent of the time, filing complaints with the BBB in 3.5 percent of incidents and to a federal agency, including the FTC, in only 1.4 percent of cases).

⁷ See, e.g., Press Release, *Federal Trade Commission Takes Action Against For-Profit Medical School for Using Deceptive Marketing to Lure Students* (Apr. 15, 2022) <https://www.ftc.gov/news-events/news/press-releases/2022/04/federal-trade-commission-takes-action-against-profit-medical-school-using-deceptive-marketing-lure>; Press Release, *Operator of Colorado Technical University and American InterContinental University Will Pay \$30 Million to Settle FTC Charges it Used Deceptive Lead Generators to Market its Schools* (Aug. 27, 2019) <https://www.ftc.gov/news-events/news/press-releases/2019/08/operator-colorado-technical-university-american->

obtained a \$100 million dollar judgment against DeVry University for making deceptive claims.⁸ Specifically, the FTC alleged that DeVry used English and Spanish-language advertisements and other marketing materials to target consumers, including military consumers, with deceptive job placement and earnings claims, to induce them to enroll at the school.⁹ Students who were lured by these deceptive claims incurred significant debt: the Commission’s complaint noted that based on DeVry’s 2015 tuition rates, depending on the program selected, a full-time undergraduate student could pay over \$75,000 in total tuition, with part-time students (who encompassed the majority of DeVry’s student population) paying even more.¹⁰ In 2022, building off of the Commission’s investigation, ED issued full borrower defense discharges for approximately 1,800 former DeVry students.¹¹

In 2019, the Commission secured a \$191 million judgment against the University of Phoenix for an ad campaign that misled thousands of consumers, including military consumers, by falsely touting its relationships and job opportunities with companies.¹² Again, students paid a high price for believing these false ads: the FTC’s complaint against the school notes that on average, it takes students enrolled at four-year, private, for-profit schools nearly nine calendar years to earn a bachelor’s degree, and that University of Phoenix charged consumers tuition ranging from about \$7,400 to \$19,400 per year, depending on the program.¹³

And just last year, the FTC took action against Saint James School of Medicine, alleging that it deceptively marketed the school’s medical license exam test pass rate and residency matches to lure consumers, including military consumers.¹⁴

Consumers have complained that these practices caused them harm. Commenting on the FTC’s case against the University of Phoenix, one consumer noted: “Got a MS in psychology but can’t do anything with [it] because there were no licensing hours . . . offered! So useless degree. \$117000!!!!”¹⁵

Another stated: “My degree has been nothing but useless, they promised me I could do it on my time (which was a lie), and that they would help me work for a major tech company (also a lie, they just sent me to usajobs.gov after I graduated).”¹⁶

[intercontinental-university-will-pay-30-million](#); Press Release, *FTC Stops Student Loan Debt Relief Schemes that it Says Bilked Students Out of Millions* (May 8, 2023) <https://www.ftc.gov/news-events/news/press-releases/2023/05/ftc-stops-student-loan-debt-relief-schemes-it-says-bilked-students-out-millions>.

⁸ Order at 10, *F.T.C. v. DeVry Education Group Inc.*, Case No. 16-cv-579 (C.D. Cal. 2016).

⁹ Compl. ¶¶ 14-19, *F.T.C. v. DeVry Education Group Inc.*, Case No. 16-cv-579 (C.D. Cal. 2016).

¹⁰ *Id.* at ¶ 11.

¹¹ Press Release, *Education Department Approves \$415 Million in Borrower Defense Claims Including for Former DeVry University Students* (Feb. 16, 2022) <https://www.ed.gov/news/press-releases/education-department-approves-415-million-borrower-defense-claims-including-former-devry-university-students>.

¹² Order at 5, *F.T.C. v. University of Phoenix, Inc.*, Case No. 19-cv-5772 (D. Ariz. 2019).

¹³ Compl. ¶¶ 11,16, *F.T.C. v. University of Phoenix, Inc.*, Case No. 19-cv-5772 (D. Ariz. 2019).

¹⁴ Press Release, *Federal Trade Commission Takes Action Against For-Profit Medical School for Using Deceptive Marketing to Lure Students* (Apr. 15, 2022) <https://www.ftc.gov/news-events/news/press-releases/2022/04/federal-trade-commission-takes-action-against-profit-medical-school-using-deceptive-marketing-lure>.

¹⁵ Business Blog, *\$50 million in refund checks for University of Phoenix Students* (Mar. 24, 2021)

<https://www.ftc.gov/business-guidance/blog/2021/03/50-million-refund-checks-university-phoenix-students>.

¹⁶ *Id.*

Consumers commenting on the FTC’s case against DeVry University expressed similar concerns. For example, one consumer stated: “I had attended DeFraud University in middle of 2007-10 and managed to graduate [w]ith an associate degree in NSA program. Unfortunately, I was unable to find a job/or start my career in my field o[f] study because of the lack of support from the the [sic] career service [department]. . . I had accumulated a lot of debt from this school[] and [there is] no way I can repay back \$43,000 [w]orking two jobs paying me under 15hr[.] De[V]ry proclaim[ed] to help students find jobs after graduating from school. However, it’s a lie how about that they rec[r]ui[]ted me with their deceptive ads and false reports by putting out nonfactual statistics about their students make more money than students from other schools. . . .”¹⁷

Another reported: “De[V]ry caught my attention by their deceptive ads on television, the high job rate their graduate[s] experience after graduation and their [] excellent job placement service. . . I even received e-mails from an admission advisor[] [e]nsuring the job success after graduat[ion]. My life become a disaster with my decision to attend DeV[r]y. I end[ed] up with over \$ 70,000.00 worth of student loan[s]. . . .”¹⁸

Similarly, another stated: “I went to DeVry from 2010 to 2013, racking up 60k in debt and not even finishing my degree because I ran out of funding. I was completely lied to by the admissions folks about earning potential of grads, job placement . . . My intent when I signed up for DeVry was to complete my degree program and be able to pay back the loans with my high paying job I’d get as a result of having graduated from DeVry. I feel like I could be the poster child for everything that was wrong with DeVry’s deceptive business practices.”¹⁹

Given the importance and expense of higher education, it is critically important to protect consumers from being misled by deceptive marketing when making enrollment decisions. The FTC’s authority in this regard was compromised when, in *AMG Capital Management v. FTC*, 141 S.Ct. 1341 (2021), the Supreme Court eliminated the Commission’s ability to obtain monetary relief directly in federal court pursuant to Section 13(b) of the FTC Act. Although the ruling has made it much more difficult to obtain full relief for unfair or deceptive practices, the FTC continues to use every remaining tool at its disposal to accomplish the agency’s mission. FTC staff supports ED’s efforts to do the same, in particular by proposing to prohibit misrepresentations and deceptive recruitment practices.

¹⁷ Business Blog, *FTC case against DeVry yields \$100 million settlement* (Dec. 15, 2016) <https://www.ftc.gov/business-guidance/blog/2016/12/ftc-case-against-devry-yields-100-million-settlement> at 1.

¹⁸ *Id.* at 2.

¹⁹ *Id.* at 3.