



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

**Statement of Chair Lina M. Khan
Joined by Commissioner Rebecca Kelly Slaughter and
Commissioner Alvaro M. Bedoya
In the Matter of Publishers Clearing House
Commission File No. 1823145**

June 26, 2023

Today the Commission announced an \$18.5 million settlement with Publishers Clearing House (PCH), a sweepstakes marketing company, resolving allegations that it deployed deceptive marketing tactics that manipulated older consumers and others into making unwanted purchases.

Today's action builds on previous efforts to crack down on companies that use illegal dark patterns to fuel digital deception and harm consumers.¹ As more commerce has moved online, companies are increasingly able to layer on a host of sophisticated tricks more frequently and at a much larger scale than traditional brick-and-mortar retailers.² Companies like PCH should not be able to pad their bottom lines by deploying labyrinth-like digital interfaces designed to trick consumers.

According to the complaint, Publishers Clearing House violated Section 5 of the FTC Act by tricking consumers into believing that purchasing merchandise from its website was necessary to enter the sweepstakes or to increase their chances of winning. Beyond burdening consumers with additional unnecessary steps, the complaint charges that PCH also misrepresented the cost of online orders, failed to disclose material additional costs—including substantial fees for shipping and handling—and misrepresented its policies on selling users' personal data to third parties prior to January 2019.

¹ See, e.g., Press Release, Fed. Trade Comm'n, Fortnite Video Game Maker Epic Games to Pay More Than Half a Billion Dollars over FTC Allegations of Privacy Violations and Unwanted Charges, <https://www.ftc.gov/news-events/news/press-releases/2022/12/fortnite-video-game-maker-epic-games-pay-more-half-billion-dollars-over-ftc-allegations> (alleging the use of dark patterns to trick consumers into making unwanted purchases in the video game Fortnite); Press Release, Fed. Trade Comm'n, FTC Action Against Vonage Results in \$100 Million to Customers Trapped by Illegal Dark Patterns and Junk Fees When Trying to Cancel Service (Nov. 3, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/11/ftc-action-against-vonage-results-100-million-customers-trapped-illegal-dark-patterns-junk-fees-when-trying-cancel-service> (alleging the use of dark patterns to make it difficult for consumers to cancel phone subscriptions); Press Release, Fed. Trade Comm'n, FTC Takes Action to Stop Credit Karma From Tricking Consumers With Allegedly False "Pre-Approved" Credit Offers (Sept. 1, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/09/ftc-takes-action-stop-credit-karma-tricking-consumers-allegedly-false-pre-approved-credit-offers> (alleging the use of dark patterns to misrepresent that consumers were "pre-approved" for credit card offers that, in many cases, they were not qualified for).

² FTC, BRINGING DARK PATTERNS TO LIGHT (2022), <https://www.ftc.gov/reports/bringing-dark-patterns-light>.

More broadly, our recent enforcement work demonstrates that direct financial loss isn't the only way consumers suffer as a result of unfair or deceptive business practices. For example, this action is the third recent case in which we've obtained compensation for consumers' wasted time—a remedy we first obtained in *Credit Karma*,³ and then again in *LCA Vision*.⁴ In recent actions we have also secured redress for small businesses affected by data security failures,⁵ for consumers whose health privacy was compromised,⁶ and for car-buyers who were hit with higher charges because of their race or national origin.⁷ The FTC recognizes the many ways that unfair or deceptive practices can injure people, and we will continue to pursue remedies that seek to make people whole for the injuries they suffer from illegal business practices.⁸

Many thanks to the Bureau of Consumer Protection's Division of Marketing Practices for their thorough work on this matter.

³ See Complaint, *In re Credit Karma, LLC*, FTC File No. 2023138, https://www.ftc.gov/system/files/ftc_gov/pdf/CK%20Complaint%209-1-22%20%28Redacted%29.pdf (alleging that consumers wasted significant time in applying for the advertised credit offers); see also Press Release, Fed. Trade Comm'n, FTC Takes Action to Stop Credit Karma From Tricking Consumers With Allegedly False "Pre-Approved" Credit Offers (Sept. 1, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/09/ftc-takes-action-stop-credit-karma-tricking-consumers-allegedly-false-pre-approved-credit-offers>.

⁴ See Complaint, *In re LCA-Vision*, FTC File No. 1923157, https://www.ftc.gov/system/files/ftc_gov/pdf/complaint_lca_vision.pdf (alleging that consumers wasted time in sitting for consultations for Lasik eye surgery services); see also Press Release, Fed. Trade Comm'n, FTC Order Requires LasikPlus to Pay for its Bait-and-Switch Eye Surgery Ads (Jan. 19, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/01/ftc-order-requires-lasikplus-pay-its-bait-switch-eye-surgery-ads>.

⁵ Fed. Trade Comm'n, Press Release, FTC Takes Action Against CafePress for Data Breach Cover Up (Mar. 15, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/03/ftc-takes-action-against-cafepress-data-breach-cover>.

⁶ Fed. Trade Comm'n, Press Release, FTC to Ban BetterHelp from Revealing Consumers' Data, Including Sensitive Mental Health Information, to Facebook and Others for Targeted Advertising (Mar. 2, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/03/ftc-ban-betterhelp-revealing-consumers-data-including-sensitive-mental-health-information-facebook>.

⁷ Fed. Trade Comm'n, Press Release, FTC Sends More than \$3.3 Million to Consumers Harmed by Passport Auto's Illegal Junk Fees and Discriminatory Practices (May 16, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/05/ftc-sends-more-33-million-consumers-harmed-passport-autos-illegal-junk-fees-discriminatory-practices>; Fed. Trade Comm'n, Press Release, FTC Returns More Than \$9.8 Million To Consumers Harmed by Napleton Auto's Junk Fees and Discriminatory Practices (Nov. 14, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/11/ftc-returns-more-98-million-consumers-harmed-napleton-autos-junk-fees-discriminatory-practices>.

⁸ Our ability to secure redress for American consumers was severely curtailed by the Supreme Court's decision in *AMG*. While we continue to deploy every tool to ensure redress for harmed consumers, it is urgent that Congress restore our authority under Section 13(b) of the FTC Act.