

# FTC Claims that AT&T Failed to Deliver on 'Unlimited' Data Promises

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Yesterday, the Federal Trade Commission ("FTC") [filed a complaint](#) in the U.S. District Court for the Northern District of California against AT&T Mobility, LLC ("AT&T") over claims that AT&T violated Section 5 of the FTC Act by engaging in unfair and deceptive practices relating to the company's "unlimited" data plans. The FTC asserts that AT&T has misled millions of its customers by marketing and selling "unlimited" data plans, while reducing data speeds for certain unlimited plan customers by up to 90 percent through a practice known as "throttling."

The FTC's complaint alleges that AT&T failed to adequately disclose to its customers who purchased unlimited data plans that, once a customer uses a certain amount of data (two gigabytes, in some cases) in a given billing cycle, AT&T reduces, or "throttles," the customer's data speeds so that popular smartphone applications such as GPS navigation and streaming video fail to function as intended. The FTC asserts that AT&T has been throttling data speeds for unlimited data customers since 2011, and has throttled at least 3.5 million customers a total of more than 25 million times.

According to the complaint, AT&T's practices were unfair under Section 5 of the FTC Act because AT&T changed the terms of customers' unlimited data plans while customers were still under contract, and then charged early termination fees ("ETFs") to customers who attempted to cancel their unlimited plan as a result of the reduced data speeds. The FTC also argues that AT&T's practices were deceptive under Section 5 because AT&T's advertising and sales materials failed to adequately disclose the nature and scope of the throttling program.

A [statement posted to the AT&T website](#) calls the FTC's allegations "baseless" and states that AT&T informed all unlimited data-plan customers about the data limits and throttling "via bill notices and a national press release that resulted in nearly 2,000 news stories, well before the program was implemented." The statement also indicates that the throttling program has affected about 3 percent of customers, and such customers are notified by text message before throttling is imposed.

The FTC's lawsuit seeks to stop AT&T from using data throttling on customers who have been promised unlimited data plans. The FTC is also seeking refunds for customer who paid ETFs when they cancelled their unlimited data plans after their data was throttled. In its [press release announcing the complaint](#), the FTC noted that FTC staff have worked closely on the matter with the staff of the Federal Communications Commission.