

Tipping Point for State Attorneys General?

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Earlier this month, [we reported](#) that the AGs (including the DC Attorney General's Office) are paying close attention to delivery and service fees. Sure enough, the DC AG's office [filed yet another lawsuit](#) related to delivery fees on December 7.

The District alleges that Amazon's Flex tipping practices deceived customers from 2016-2019, stopping only after an [FTC investigation](#) ultimately resulted in a 2021 settlement. While Amazon had represented that all tips would be paid to drivers, in actuality, tips were deducted out of payments to those drivers. This resulted in a net benefit to Amazon, rather than to the drivers, which the AG claims was contrary to customer expectations and deceptive even in the eyes of its own employees. The District is seeking civil penalties and a court order to ensure that Amazon is never able to engage in this practice again. The FTC settlement included a \$61.7 million payment which represents the full amount that Amazon allegedly withheld from drivers and will be used by the FTC to compensate drivers. Amazon argues that the FTC settlement has resolved the issues in this matter.

Some takeaways here?

- Old, past practices that stopped years earlier may not prevent a state AG investigation.
- A prior investigation and resolution with another enforcement agency, including the FTC, may not prevent a state AG investigation.
- Fees are still a hot topic! Companies wanting to stay off of the state AG radar should make sure that all fees are clearly disclosed – not just the amounts, but their purpose too. And all disclosures should be truthful and non-misleading.