

What We Learned From ... NAAG's Director of the Center for Consumer Protection

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AG Trends for 2024

What trends are shaping consumer protection in 2024?

From kids on social media to fake reviews and junk fees, state AGs are working across state (and partisan) lines on initiatives that promise to mold the consumer protection landscape for years to come. In this post, we reflect on our conversation with Todd Leatherman, who works at the forefront of these issues as Director of the National Association of Attorneys General (NAAG) Center for Consumer Protection.

Trend 1 - Protecting America's Online Youth

For state enforcers, children are top-of-mind, especially when it comes to social media. A coalition of 33 state AGs filed a [federal lawsuit](#) in California alleging Meta violated state consumer protection laws and the Children's Online Privacy Protection Act. The AGs claim that Meta knowingly designed and deployed addictive and harmful features on its social media platforms, intentionally addicting children and teens and misleading the public about whether its services were safe for younger children. A number of other states have filed similar lawsuits in state courts [including Nevada](#), which also targeted TikTok and Snap. These lawsuits are ongoing and will no doubt affect how social media platforms engage younger consumers.

This year, Oregon AG and NAAG President Ellen Rosenblum chose her Presidential Initiative as: "America's Youth: AGs Looking Out for the Next Generation." This initiative and corresponding [NAAG Presidential Summit](#) will include programming on technology, physical health, mental and behavioral health, and financial literacy.

On the legislative front, we have seen new laws aimed at protecting young people online. Florida recently [passed a law](#) banning social media accounts for minors under 14 and requiring parental consent for 14 and 15-year-olds. [Georgia](#) may soon also require minors under 16 obtain parental consent to create an account, following similar restrictions passed in [Louisiana](#), [Texas](#), [Arkansas](#) (currently enjoined pending litigation), and [Utah](#). Generals Letitia James of New York and Rob Bonta of California [have also advocated](#) for state legislation targeting the addictive features of social media. Given the aforementioned, we expect AGs to tune into emerging issues affecting children for years to come.

Trend 2 - Big Tech's Advertising Practices

For years, big tech has been a leading issue for bipartisan cooperation among state enforcers. Last

year, we saw a [\\$700 million settlement](#) with Google and 53 state AGs over the Google Play Store. This led to significant reforms in Google's practices, including how consumers access apps and how payments are processed. Currently, [38 state AGs](#) and the [Department of Justice](#) have sued Google over alleged anti-trust violations, including monopolizing the search market. The cases were consolidated with [closing arguments](#) slated to begin May 1st.

Since our conversation with Mr. Leatherman, DOJ and 16 other state attorneys general announced a landmark [lawsuit](#) against Apple alleging that it monopolized the smartphone market. This includes allegations that Apple intentionally makes it difficult for consumers to switch cellphones and undermines innovation, among other claims.

Trend 3 - Algorithms and AI

The promise and perils of AI have drawn major focus at AG offices across the nation and at NAAG, according to Leatherman. Last year, 54 AGs sent a [letter](#) to Congressional leaders encouraging them to study how AI may lead to child sexual abuse and exploitation online. Another collation of 26 AGs submitted a [comment](#) to the FCC on the use of AI in robocalls with the FCC later voting to ban robocalls using AI-generated voices. (Revisit our post on Washington's new AI task force [here](#).)

Now, we're seeing AGs particularly concerned about racial and gender bias in AI programs used in employment, housing, and financial lending and services. Enforcers are also looking into the marketing of AI, including whether companies are overpromising on what the technology can actually provide. Given how quickly AI is advancing across sectors, we expect to see more scrutiny in the months ahead. And stay tuned for additional information on AGs and AI as our team will be reporting on the NAAG and AGA Southern Region Meeting on Artificial Intelligence and Preventing Child Exploitation occurring in April.

Trend 4 - Fake Reviews

Fake reviews, including misleading influencer content, have drawn AG attention. This year, 22 AGs [submitted a letter](#) to the FTC largely supporting a new rule that would govern and ban fake reviews. That rulemaking is ongoing.

States, including [New York](#) and [Washington](#), have taken individual action against companies engaged in deceptive review practices. This includes instructing employees or associates to post positive reviews, threatening or intimidating consumers who post negative reviews, or requiring consumers to sign NDAs to receive services. Notably, states are able to enforce the Consumer Review Fairness Act, a federal law.

Trend 5 - Automatic Renewals

States continue to enforce their recently enacted automatic renewal statutes or provisions (for example, laws in [California](#), [New York](#), [Washington D.C.](#), and [Virginia](#)), which generally impose disclosure requirements, require that companies obtain affirmative consent from consumers, and mandate cancellation mechanisms. This includes requiring an online cancellation option when a consumer signs up for a service online. That said, states do not necessarily need a new law to target these practices as their general consumer protection laws likely apply. AGs may also enforce the federal Restore Online Shoppers' Confidence Act.

Trend 6 - Junk Fees

Companies that advertise one price and then tack on fees should beware. Enforcers are making so-

called “junk” or hidden fees a priority. California has passed a [new law](#) governing fees and Massachusetts is in the process of instating [new regulations](#) governing them. Not to be outdone, the FTC has also [proposed a rule](#) on fees with a virtual hearing to take place in late April. (This aligns with the Biden administration’s whole-of-government approach to junk fees with other rulemaking and guidance out of the FCC, CFPB, HUD, and DOT).

That said, AGs take the position they do not necessarily need *new* legislation to target fees. [Pennsylvania](#) has led the way in asserting claims under state consumer protection laws and the Consumer Financial Protection Act against companies that impose fees. Similarly, [Connecticut and the FTC](#) have joined forces in litigation against a car dealer that allegedly deceived consumers about the nature of fees and add-ons. And [Washington D.C.](#) has warned restaurants that service charges could be unlawful if they are not disclosed before an order is placed.

Trend 7 - Privacy

States continue to pass and enact new privacy laws. Earlier this year, [New Hampshire](#) became the 15th state to pass a comprehensive state privacy law and several other privacy bills are currently making their way through the legislative process. Many of the new laws will become effective this year through 2026, spurring enhanced AG interest in privacy matters.

In California, we saw the first [investigative sweep](#) in this arena with General Rob Bonta sending out letters to popular streaming apps and device companies alleging they failed to comply with California’s new privacy law. According to the office, the investigation will focus on opt-out requirements for business that sell or share consumer personal information.

Trend 8 - Veterans

While veterans have long been a priority for state AGs, the uptick in businesses offering to “counsel” or support veterans in applying for government benefits has sparked new AG activity in this space. Last year, a bipartisan group of 44 AGs [sent a letter to Congress](#) urging the body to pass legislation that further protects veterans in the application process and the Texas AG’s office [sued](#) a company that misled veterans about their ability to help obtain benefits and charged alleged excessive fees in the process.

Trend 9 - Health

In the health space, opioid marketing, vaping, and illegal cannabis products continue to take center stage. While the larger opioid cases have concluded, litigation is far from over. AGs have been leading the way in targeting manufacturers, distributors, and pharmacies that engaged in deceptive marketing tactics around opioids. We’ve also seen a focus on nicotine and cannabis products, particularly those that may appeal to children. A group of 33 AGs sent a [letter](#) to the FDA urging more stringent regulations on electronic nicotine delivery products, including on the marketing of e-cigarettes and the use of influencers to promote them. [Connecticut](#) and [Nebraska](#) have also cracked down on illegal marketing of cannabis products using their state consumer protection laws.

Trend 10 - Rapid Response

Many businesses fail to realize how substantial a role AGs play in emergencies and urgent consumer issues. They face public pressure to respond to events in real-time. For instance, the Taylor Swift concert ticket debacle led to more than [2,600 consumer complaints](#) in Pennsylvania alone.

And, when it comes to a market disruption or natural disaster, some states have specific price

gouging laws that provide state AGs enforcement authority. These laws vary by state and it can sometimes be difficult for companies to know when they are in place. We've seen a rise in AGs targeting companies following emergency situations for increasing prices on consumer staples and targeting charities that mislead consumers about donations in the time of crisis.

Kelley Drye's state AG team will continue to monitor consumer protection trends in 2024. To view our full conversation with NAAG's Todd Leatherman, [click here](#). To stay up-to-date with our AdLaw Access blog, [subscribe here](#).