

State Attorneys General April 10 Update

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Litigation

New York AG Eric Schneiderman announced on April 6 a \$100,000 settlement with True Ultimate Standards Everywhere, Inc. (TRUSTe) “in connection with the company’s failure to adequately prevent illegal tracking technology from surfacing on some of the nation’s most popular children’s websites,” according to a [press release](#). TRUSTe is a privacy compliance and risk management provider that operates a Children’s Online Privacy Protection Act (COPPA) safe harbor program “designed to assess website operators’ compliance with COPPA” and under which “TRUSTe is required to conduct a comprehensive review of website operators’ policies, practices, and representations,” according to the press release. However, “TRUSTe’s annual reviews failed to adhere to the company’s own policies,” for example, “[a]lthough TRUSTe conducted electronic scans of customers’ websites for third-party tracking technology prohibited by COPPA, in many cases TRUSTe omitted most or all of its customers’ children’s webpages from its scans,” according to the press release. The press release states that “TRUSTe’s failure to adequately assess its customers’ websites . . . left underage visitors to those websites vulnerable to illegal tracking.” As part of the settlement, TRUSTe will “pay a penalty of \$100,000 and adopt new measures to strengthen its privacy assessments,” per the press release.

Advocacy

Texas Governor Greg Abbott and Texas AG Ken Paxton have issued a letter to Senate Majority Leader Mitch McConnell and House Speaker Paul Ryan calling on the US Congress to “promptly consider and pass the Free Speech Fairness Act” in order to “fully restore the legal right of churches to participate in the political debates of our society by removing a 60-year-old Internal Revenue Code provision – the Johnson Amendment – which threatens churches with the loss of their tax-exempt status if they support or oppose legislation or candidates.” Governor Abbott and AG Paxton “agree with the president that Congress should ‘totally destroy’ the Johnson Amendment.” They state in the letter that “[r]eligious liberty is a cornerstone of our republic” and that “until passage of the Johnson Amendment, churches and pastors played a vital role in bringing a faith perspective to the pressing political issues of the day.” The Free Speech Fairness Act would “ensure churches may once again freely participate in government,” according to the letter.

Attorneys general from 17 states and the District of Columbia, as well as the Hawaii Office of Consumer Protection (collectively, “the states”), have issued a letter to Congressional leaders urging them to oppose resolutions introduced in the Senate and House that “would eradicate important protections that have been proposed for consumers who use prepaid cards . . . to receive wages, make purchases, or pay their bills.” Specifically, the proposed resolutions – S.J. Res. 19, H.J. Res. 62, and H.J. Res. 73 – state that rules “relating to prepaid accounts” issued by the Consumer Financial Protection Bureau (CFPB) under the Electronic Fund Transfer Act and Truth in Lending Act “shall have no force or effect.” The states’ letter notes that prepaid cards “are a rapidly growing market and are often used by consumers who have limited or no access to a traditional bank account,” yet “consumers frequently report concerns about hidden and abusive fees as well as fraudulent transactions.”

The CFPB’s rules, which are proposed to take effect on April 1, 2018, are “intended to give prepaid card users some of the same protections that are given to users of traditional banking and credit products by, among other things, protecting prepaid card users against fraud and unauthorized charges, making the fees associated with prepaid cards more transparent, and limiting the abusive use of overdraft fees,” according to the states’ letter. The states urge Congressional leaders to oppose the proposed resolutions “so that our citizens will be protected from unfair, deceptive, and abusive practices by some actors in the prepaid card industry.”

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