



Key updates:

- Under its Penalty Offense Authority, the Federal Trade Commission (FTC) warned almost 700 marketers with a [Notice of Penalty Offenses](#) (Notice) that certain advertising claims must be proven or substantiated with reliable evidence, especially those related to health products, or they may face civil penalties.
- Advertisers should have a reasonable basis for health claims, including complying with recognized scientific standards when making claims about the effectiveness of their products in curing, mitigating, or treating significant conditions such as cancer or heart disease.
- The Notice comes on the heels of the FTC updates to [Health Products Compliance Guidance \(the Health Guides\)](#) and indicates the FTC continues to scrutinize health claims.

The Notice was sent to companies involved in the marketing of over-the-counter drugs, homeopathic products, dietary supplements, or health foods. The Notice does not establish new rules or guidance by the FTC, but creates a path for the FTC to more easily assess penalties if companies make certain claims without adequate substantiation. The FTC used the same tactic near the end of 2021, issuing hundreds of Notices to companies using [influencers and endorsers](#)—and referenced and included the influencer and endorser notice with this one.

The Notice details specific actionable practices including:

- Failure to provide a reasonable basis for objective product claims.
- Failure to provide competent and reliable scientific evidence for health or safety claims.
- Failure to undertake well-controlled human clinical studies to back up claims about curing, mitigating, or treating serious diseases.
- Falsifying scientific validity or misrepresenting the type of substantiation for a claim.

Advertisers of health-related products should be sure to carefully review and understand the FTC's recently issued updates to the [Health Products Compliance Guidance \(the Health Guides\)](#). The Health Guides reflect a significant expansion of the FTC's prior guidance concerning advertising for health-related products. See our previous [blog](#) post for more detail on the changes to the health guidelines.

Authors



[Tim Carter](#)

Associate

TCarter@perkinscoie.com [650.838.4786](tel:650.838.4786)



[Nathan W. Kosnoff](#)

Discovery Attorney

NKosnoff@perkinscoie.com [206.359.6673](tel:206.359.6673)

Explore more in

[Consumer Protection](#)

Blog series

Consumer Protection Review

Consumer Protection Review helps businesses that market and sell to consumers navigate federal and state legal issues related to advertising, privacy, promotions, products liability, government investigations, unfair competition, class actions and general consumer protection. [Subscribe ?](#)

[View the blog](#)