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### FTC Staff Paper Finds that Most Surveyed “Smart” Products Fail to Disclose Duration of Support



On November 26, 2024, the FTC released a [staff paper](#) regarding the disclosure of the duration of the support for the software of connected consumer devices. As the FTC staff explained, if a manufacturer stops providing software updates, products may lose their “smart” functionality, become insecure, or stop working entirely. Against that backdrop, the FTC examined the software support disclosures of manufacturers of 184 connected consumer products. The FTC concluded that just under 89% of the product web pages for the studied devices did not disclose a software support period.

#### **Study Findings**

The FTC looked at connected consumer devices in an array of categories, ranging from smart locks to home security cameras to hearing aids. For each device, the FTC looked for device support information on the manufacturer’s product web page for the device model in question, noting that this is a likely place for consumers to turn for information about a connected product. The FTC staff deemed product information on a product web page “readily available” if it could be found in three minutes or less.

Of 184 product web pages reviewed, 21 (or 11.4%) disclosed the device’s software support duration or end date. In addition, the FTC staff admonished that the product web pages for some of these 21 devices did not appear to provide the product release date—which could impede consumers’ ability to determine how long they should expect to receive updates. Further, some used “ambiguous” language to describe the support commitment, such as “lifetime technical support,” “as long as your device is fully operational,” and “continuous software updates.” In addition, the FTC criticized the lack of uniformity among manufacturer product pages in terms of location, presentation, and language of the information provided concerning software support periods, which “makes it difficult to compare one product with another.”

#### **FTC Staff Conclusions**

The FTC staff warned that, “[d]epending on the facts,” a failure to disclose the duration of software updates could violate the Magnuson Moss Warranty Act, 15 U.S.C. § 2301, et seq., and the FTC’s Pre-Sale Availability Rule, 16 C.F.R. § 701.3(a)(2), which requires consumer products costing more than \$15 to have “[a] clear description and identification of products, or parts, or characteristics, or components or properties covered by and where necessary for clarification, excluded from the warranty.”

In addition, according to the FTC staff, a failure to disclose the duration of software support could be a deceptive practice under Section 5 of the FTC Act, 15 U.S.C. § 45(a), if a manufacturer makes an express or implied representation about how long a product will function or be usable. The FTC staff further cautioned that the failure to disclose the duration of software support or a failure to provide software updates could be an unfair practice depending on the consumer injury and other elements of Section 5(n), 15 U.S.C. § 45(n).

### **Takeaway**

The FTC staff observed that “[m]anufacturers’ failure to disclose the duration of their software support commitments warrants further consideration by policymakers and law enforcers.” In the past, the FTC has been active regarding the duration of support for connected devices with [investigative activity](#), [guidance](#), [comments to other federal agencies](#), and [industry studies](#). This paper suggests that the FTC is contemplating further enforcement activity in this area.

### **Authors**

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