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US FTC Proposes Extending Ban On Impersonation Scams

The US Federal Trade Commission (FTC) is seeking input on a proposal to extend the protections of a new rule prohibiting the impersonation of government and businesses to also apply to individuals.

If adopted, the supplemental notice would enable enforcers to seek civil penalties and redress from fraudsters.

The move is in response to a surge in complaints around impersonation fraud, and the impact on consumers as well as the individuals being impersonated.

Voice cloning and other scams are increasing, as fraudsters are using artificial intelligence (AI) tools to impersonate individuals with uncanny precision and on a large scale.

The need for legal constraints is becoming clear as the use of deepfakes extends beyond impersonating public figures on social media.

Consumers have reported tens of thousands of romance scams, as well as scams impersonating their friends and family, in recent years. Scammers are also targeting businesses by impersonating employees to extract money.

The regulations highlight the need to enforce ethical AI use to maintain consumer trust.

With AI technology advancing rapidly ahead of regulatory frameworks, the FTC is using its consumer protection authority to issue guidance documents and engage in enforcement activities to intercept deceptive practices.

It has warned against misleading consumers with AI-generated content and dishonesty in data collection to train AI algorithms.

“Emerging technology — including AI-generated deepfakes — threatens to turbocharge this scourge, and the FTC is committed to using all of its tools to detect, deter, and halt impersonation fraud,” said the FTC.

The commission is also seeking comment on whether the revised rule should extend liability to any party that provides the “means and instrumentalities” to commit an impersonation scam.

This would include developers of AI platforms that can create images, video or text to provide goods or services that they know or have reason to know are being used to harm consumers.

“Ensuring that the upstream actors best positioned to halt unlawful use of their tools are not shielded from liability will help align responsibility with capability and control,” Lina Khan, chair of the FTC.

Reported consumer losses to fraud in the US surpassed $10bn for the first time last year, climbing by 14 percent from 2022, FTC data shows. Around 27 percent of the 2.6m consumers who reported fraud in 2023 incurred a financial loss.

Impersonation fraud has remained one of the largest sources of total reported consumer financial losses for several years, accounting for 15.8 percent of all reports last year.

There was a significant increase in reports to the FTC of government and business impersonation scams last year.

New rules would give FTC teeth against scammers

The new Government and Business Impersonation Rule the FTC has finalised enables the agency to directly file federal court cases aimed at forcing scammers to return the money they steal.

This follows the Supreme Court’s April 2021 ruling in *AMG Capital Management LLC v FTC*, which limited the FTC’s ability to require defendants to return money to victims.

Under the rule, the FTC will be able to directly seek monetary relief in federal court from scammers that:

- Use government seals or business logos in communications with consumers by mail or online.

- Spoof government and business emails and web addresses. This includes spoofing “.gov” email addresses or using lookalike email addresses or websites that rely on misspellings of a company’s name.

- Falsely imply an affiliation by using terms that are known to be used by a particular government agency or business.

The proposal to extend the rule comes in response to comments the FTC received during the public comment period that pointed to the additional threat posed by the impersonation of individuals.

The final rule on government and business impersonation marks the first time since 1980 that the commission has finalised a new trade regulation rule prohibiting an unfair or deceptive practice.

It will become effective 30 days from the date it is published in the Federal Register. The public comment period for the proposed supplemental notice will be open for 60 days from its publication date.

Jurisdictions

United States

Authorities

Federal Trade Commission

Specialisms

Customer Protection | Cybersecurity | Fraud & Security | Supervision