



## **SUPPORT [S.J.Res. 150](#) to Protect Consumers from Unfair, Abusive, or Deceptive Financial Advertising Techniques**

In 2022, the Consumer Financial Protection Bureau (CFPB) cracked down on abusive or deceptive acts by digital marketing providers by issuing guidance on the rules surrounding advertising techniques. But in a rule submitted to Congress, the Trump CFPB rescinded that guidance—increasing the risk of distorting consumer choice through unfair or deceptive advertising.

Senator Blumenthal’s joint resolution of congressional disapproval (JRD) would undo the Trump CFPB decision and restore the earlier rule: “Limited Applicability of Consumer Financial Protection Act’s ‘Time or Space’ Exception With Respect to Digital Marketing Providers.”

*Endorsers: National Consumer Law Center (on behalf of its low-income clients), Consumer Federation of America, Center for Responsible Lending, Protect Borrowers, Americans for Financial Reform, National Community Reinvestment Coalition*

### **Key Points**

- **Digital marketing providers differ significantly from traditional advertising—and can pose more risks to consumers.** Though traditional advertising attempts to reach a wide audience with generalized ads, digital marketing providers focus on targeting individuals. These providers seek to maximize a consumer’s interaction with an advertisement by [harvesting data](#) on their behavior to create targeted advertising. As a result, digital marketing providers can manipulate consumers into choosing high-cost products, undermining competition and limiting a consumer’s ability to make informed choices.
- **The Consumer Financial Protection Act (CFPA) ensures that advertising companies are held accountable for their marketing practices.** Advertising service providers are generally prohibited from making unfair, deceptive or abusive claims, and must disclose material information about a financial product. Traditional “time or space” media, like newspapers or television stations, are exempted from these requirements because they are considered conduits that are not meaningfully involved in the strategy for [distributing and curating](#) the advertising content.
- **The Biden CFPB issued guidance to clarify that digital marketing providers are not covered by the CFPA exemption for “time and space” media.** In 2022, the CFPB issued an [interpretive rule](#) stating that digital marketing providers must adhere to federal consumer protection laws and are liable for unfair, deceptive, or abusive practices, because they are materially involved in developing the distribution strategy and curation of advertising content – using sophisticated analytic techniques to pool personal data and deliver highly targeted ads.
- **The Trump Administration withdrew this commonsense guidance, and this JRD seeks to restore it.** Although underlying statutes like the CFPA continue to protect consumers from certain advertising practices, the Trump Administration’s rescission of the guidance intended to clarify obligations for digital marketing providers signals to bad actors that they may have leeway to engage in anti-consumer practices without fear of facing any real consequences from the current CFPB. It is critical for Congress to restore the earlier guidance.