
major enforcement actions against data brokers charging that they unfairly collected or sold consumers' sensitive geolocation data. Thanks in part to the FTC's unfairness authority, the Commission was able to secure orders that did not simply require better disclosures around the sale of consumers' sensitive location data (i.e., stopping deception)—rather, they prohibited the practice altogether.

Finally, we understand that New York is considering creating a private right of action to complement enforcement by the Attorney General. Although the FTC Act does not include its own private right of action, many state consumer laws do, and private attorneys general have been force multipliers in protecting consumers from unfair practices.¹⁰

We hope this information is valuable to you as you consider legislation in this area. Please do not hesitate to reach out if there is any assistance we can provide as you consider this legislative reform.

Very Truly Yours,



Samuel Levine
Director
Bureau of Consumer Protection



Hannah Garden-Monheit
Director
Office of Policy Planning

Identical letters sent to:

The Honorable Kathy Hochul, Governor, New York State
The Honorable Andrea Stewart-Cousins, President Pro Tempe and Majority Leader, New York State Senate
The Honorable Robert G. Ort, Minority Leader, New York State Senate
The Honorable Kevin Thomas, Chair of the Committee on Consumer Protection, New York State Senate

¹⁰ Because of its important role in protecting the public, the vast majority of states have adopted unfairness authority. It bears noting that many states have not adopted the FTC's specific test for unfairness. *See* David L. Belt, *Should the FTC's Current Criteria for Determining "Unfair Acts or Practices" Be Applied to State 'Little FTC Acts'?* 9 ANTITRUST SOURCE 6 (2010).