

How Not to Handle a Crisis: FTC Sues Marketer for Deceptive COVID Stimulus Mailers

July 10, 2020 | [Patricia E.M. Covington](#)

In April, we wrote about the [Georgia Attorney General's Office's warnings against deceptive advertising related to COVID-19 stimulus payments](#). In its guidance, the AG noted the possibility that representations implying that a dealer is offering a unique "COVID-19 Stimulus Program" could be construed as deceptive or misleading. This warning turned out to be prescient. In June, the Federal Trade Commission sued a marketing company and its owners for doing exactly what the Georgia AG warned against.

Before we get to the suit, let's take a quick look at the Coronavirus Aid, Relief, and Economic Security Act. The CARES Act was enacted in March 2020 to provide immediate assistance to individuals, families, and businesses affected by the COVID-19 pandemic. The CARES Act provided stimulus payments for individuals and married couples within qualifying income thresholds, with an additional payment per qualifying child. While the CARES Act included relief provisions for federally backed mortgages and federal student loans, it did not provide relief related to auto loans or auto-related financing.

With that background in place, let's talk about the suit.

Traffic Jam Events is a marketer that offers direct mail marketing services and staffed tent sales events to auto dealers. At the outset of the COVID-19 pandemic, Traffic Jam Events sent mailers to Florida consumers labeled "TIME-SENSITIVE." These mailers included the words "IMPORTANT COVID-19 ECONOMIC STIMULUS DOCUMENT ENCLOSED" in bold on the front. Within each mailer was a notice with a header stating, "URGENT: COVID-19 ECONOMIC AUTOMOTIVE STIMULUS PROGRAM RELIEF FUNDS AVAILABLE • ALL PAYMENTS DEFERRED FOR 120 DAYS." The notice stated that a "special COVID-19 Economic Automotive Stimulus Program with relief funds and other incentives" would be held at a specified location, identified in the notice as "relief headquarters."

Within the mailer, Traffic Jam Events also included a supposed check from "Stimulus Relief Program," with "COVID-19 AUTO STIMULUS" in the memo field and a space to endorse the check on the back. When consumers visited the address listed in the mailers, however, they found a lot hosting a used car sale.

The FTC sued Traffic Jam Events based on the FTC Act's prohibition against unfair or deceptive acts or practices. Specifically, the FTC alleged that Traffic Jam Events misled

consumers by misrepresenting that consumers were receiving official COVID-19 stimulus information, that consumers were receiving COVID-19 stimulus relief, including stimulus checks, and that Traffic Jam Events was affiliated or otherwise associated with, or approved by, the government. The FTC is seeking injunctive relief, as well as monetary relief in the form of consumer redress and attorneys' fees.

In another [recent article](#), our colleague, Andrea Cottrell, noted that there are two types of advertisers in a crisis: those who aid consumers and those who take advantage of consumers. The FTC's suit against Traffic Jam Events shows not only that this second group most certainly exists but also that such behavior is low-hanging fruit for regulators looking for bad actors.

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