

CONSUMER FINANCIAL PROTECTION BUREAU

Washington, DC 20552

In the Matter of Rocket Companies, Inc.

**Complaint and Request for Investigation, Injunction, and Other Relief
Submitted by
The Electronic Privacy Information Center (EPIC)**

I. Summary

II. Parties

III. CFPB's Authority Over Fintech

IV. Rocket Money Engages in Unfair, Deceptive, and Abusive Trade Practices in Violation of Federal Consumer Protection Law.

- A. Rocket Money Uses Dark Patterns to Deceive Consumers Into Giving Up Their Private Financial Data Without the Complete Knowledge of the Cost of Services.
- B. Rocket Money Forces Users To Link Their Bank Accounts with Plaid, Inc., a Known Abuser of Consumer Data.
- C. Rocket Money Uses Dark Patterns To Deceive Users into Paying for Services Advertised As Free.
- D. Rocket Money's Makes False Promises Regarding User Data Privacy.
- E. The Bill Negotiation Service Employs Dark Patterns to Manipulate Users into Giving a Higher Percentage of Their Savings.
- F. Concealment of the Annual Fee for Bill Negotiation Services is Abusive.
- G. The Bill Negotiation Refund Process is Extremely Burdensome.
- H. The Bill Negotiation Refund Process Does Not Return Users' Money and Locks Them into Rocket Money's Services.

V. Rocket Money Violates the FCRA.

- A. Rocket Mortgage Functions as a Consumer Reporting Agency.
- B. Rocket Money Obtains and Uses Consumer Reports for Self-Promotional Marketing Purposes.

VI. Prayer for Investigation and Relief

I. Summary¹

The financial technology (“fintech”) company Rocket Money advertises itself as a “free” money-saving app that employs exceptional privacy practices with regards to its users’ sensitive financial data.² However, the app’s use of dark patterns³ to manipulate users into paying for its services and its misleading and dangerous handling of consumers’ financial data constitutes unfair, deceptive, and abusive practices, creating profit for Rocket Money at users’ expense.

Rocket Money violates Title X of the Dodd-Frank Act⁴ by (A) using dark patterns to manipulate users into giving up private financial data without meaningful notice, (B) forcing users to link their bank accounts with Plaid, a known abuser of consumer data,⁵ (C) deceiving users into paying for services that were marketed as free, (D) misrepresenting its data protection practices, (E) deceiving users into paying a higher fee for its service of negotiating users’ bills (“Bill Negotiation”), (F) charging an unfair and abusive fee for Bill Negotiation services, (G) perpetuating an abusive refund service for Bill Negotiation, and (H) not actually returning Bill Negotiation customers’ money.

Moreover, Rocket Money violates the Fair Credit Reporting Act (“FCRA”) by unaccountably collecting vast quantities of credit information about its users and sharing this information in ways likely to affect those users’ mortgage or loan outcomes. In this way, Rocket Money operates as a consumer reporting agency but fails to abide by the requirements for consumer reporting agencies set out in the FCRA. For example, it shares reports about its customers without having a “permissible purpose” to do so.⁶ Rocket Money likewise obtains and

¹ Counsel for EPIC wish to thank NYU Technology Law and Policy Clinic Student Advocates Molly Collett and Carmen Lyon for their contributions to this Complaint.

² Ex. 14, Welcome to Rocket Money Email.

³ “Dark patterns” are “design practices that trick or manipulate users into making choices they would not otherwise have made and that may cause harm.” Fed. Trade Comm’n, *Bringing Dark Patterns to Light* (Sept. 2020), at 3, https://www.ftc.gov/system/files/ftc_gov/pdf/P214800%20Dark%20Patterns%20Report%209.14.2022%20-%20FINAL.pdf. Dark patterns are also known as “manipulative design” or “deceptive design.”

⁴ Title X of the Dodd-Frank Act, the Consumer Financial Protection Act, states that it is unlawful for any provider of consumer financial products or services or a service provider to engage in any “unfair, deceptive or abusive act or practice.”

⁵ See, e.g., *In re Plaid Inc. Privacy Litig.*, No. 20-cv-3056 (N.D. Cal. 2021).

⁶ 15 U.S.C. § 1681b (defining “permissible purpose”). See, *infra*, Section V.A.2 (Rocket Money’s Privacy Policy notes that “[the Rocket Family of Companies] share[s] personal information with third parties for their own services and marketing purposes, analytics, and in some cases to jointly market and provide products and services with third parties.” These are not “permissible purposes” per Section 604 of the FCRA).

uses its customers' credit reports to engage in self-promotional marketing in further violation of the FCRA.⁷

Consumers from vulnerable populations are especially harmed by Rocket Money's app. The fintech sector is uniquely attractive to younger consumers,⁸ as well as to demographic groups that face higher barriers to entry in accessing traditional financial services.⁹ Nationwide coverage of predatory fintech apps targeted at financially precarious individuals illustrates the broad geographic scope of the issues posed by these apps.¹⁰ Rocket Money explicitly targets consumers who are seeking financial help. Ironically, Rocket Money's unlawful practices threaten to inflict harm on those who need its help the most to pay their bills—young and/or low-income consumers.

II. Parties

A. EPIC

The Electronic Privacy Information Center ("EPIC") is a public interest research center in Washington, D.C. EPIC was established in 1994 to secure the fundamental right to privacy in the digital age for all people through advocacy, research, and litigation. EPIC has played a leading

⁷ 15 U.S.C. § 1681b ("a person shall not use or obtain a consumer report for any purpose unless" the consumer report "is obtained for a purpose for which the consumer report is authorized to be furnished under [Section 604 of the FCRA]" and "the purpose is certified in accordance with FCRA section 607 by a prospective user of the report through a general or specific certification."). See, *infra*, Section V.B.2 (Rocket Money's Terms of Service uses and obtains consumer reports in order to make "recommendations regarding financial products and services that may be of interest to [Rocket Money users]." Obtaining and using consumer reports for the purpose of targeted marketing violates Section 604(f) of the FCRA).

⁸ Nikhil Lele and Rob Mannamkery, *How financial institutions can win the battle for trust*, ERNST & YOUNG (2021), https://www.ey.com/en_us/nextwave-financial-services/how-financial-institutions-can-win-the-battle-for-trust.

⁹ Kristen Broady, Mac McComas, and Amine Ouazad, *An analysis of financial institutions in Black-majority communities: Black borrowers and depositors face considerable challenges in accessing banking services*, BROOKINGS INST. (2021), <https://www.brookings.edu/research/an-analysis-of-financial-institutions-in-black-majority-communities-black-borrowers-and-depositors-face-considerable-challenges-in-accessing-banking-services/> ("during the pandemic, Black-owned businesses were 12 percentage points more likely to obtain PPP loans from fintech lenders, while small banks were much less likely to lend to Black businesses")

¹⁰ See, e.g., Alex Gaily, *Why You Shouldn't Lean on Cash Advance Apps When You're Short on Money*, TIME, Jan. 6, 2021. (New York Department of Financial Services investigation found that certain cash advance apps take advantage of financially vulnerable consumers, by "collect[ing] usurious or otherwise unlawful interest rates in the guise of 'tips,' monthly membership and/or exorbitant additional fees, and may force improper overdraft charges on vulnerable low-income consumers.").

role in developing the authority of the consumer protection agencies to address emerging privacy issues and to safeguard the privacy rights of consumers.¹¹

B. CFPB

The Consumer Financial Protection Bureau (“CFPB”) is an agency of the United States government given statutory authority and responsibility by, *inter alia*, the Dodd-Frank Act.¹² Congress has tasked the CFPB with ensuring that markets for consumer financial products and services are fair, transparent, and competitive. CFPB Commissioner Rohit Chopra has recognized the need for the CFPB to investigate nonbank financial firms, such as fintech companies, noting that the CFPB will exercise its authority to “move as quickly as the market, allowing us to conduct examinations of financial companies posing risks to consumers and stop harm before it spreads.”¹³

C. Rocket Companies

Rocket Companies is a Delaware company headquartered in Detroit, Michigan. Rocket Companies consists of a portfolio of fintech firms, providing “digital solutions for complex transactions.”¹⁴ In 2021, Rocket Companies acquired Rocket Money (formerly known as Truebill) for \$1.275 billion, thus adding it to its portfolio of fintech services, including Rocket

¹¹ See, e.g., Comments of EPIC, In re Unrollme, Inc., FTC File No. 1723139 (Sept. 19, 2019), <https://epic.org/apa/comments/EPIC-FTC-Unrollme-Sept2019.pdf>; Comments of EPIC, In re Aleksandr Kogan and Alexander Nix, FTC File No. 182 3106 & 1823107 (Sept. 3, 2019), <https://epic.org/apa/comments/EPIC-FTC-CambridgeAnalytica-Sept2019.pdf>; Comments of EPIC, Standards for Safeguarding Customer Information, FTC Document No. 2019-10910 (Aug. 1, 2019), <https://epic.org/apa/comments/EPIC-FTC-Safeguards-Aug2019.pdf>; In re Zoom Video Commc’ns, Inc. (Complaint, Request for Investigation, Injunction, and Other Relief), July 11, 2019), <https://epic.org/privacy/ftc/zoomEPIC-FTC-Complaint-In-re-Zoom-7-19.pdf>; Comments of EPIC, In re Uber Technologies, Inc., FTC, Docket No. 152-3054 (May 14, 2018), <https://epic.org/apa/comments/EPIC-FTC-Revised-Uber-Settlement.pdf>; Comments of EPIC, In re Paypal, Inc. FTC File No. 162-3102, (Mar. 29, 2018), <https://epic.org/apa/comments/EPIC-FTC-PayPal-ConsentOrder.pdf>; In re Google Inc. (Complaint, Request for Investigation, Injunction, and Other Relief), July 31, 2017, <https://www.epic.org/privacy/ftc/google/EPIC-FTC-Google-Purchase-Tracking-Complaint.pdf>; In re Genesis Toys and Nuance Communications (Complaint and Request for Investigation, Injunction, and Other Relief), Dec. 6, 2016, <https://epic.org/privacy/kids/EPIC-IPR-FTC-Genesis-Complaint.pdf>.

¹² The Bureau is charged, *inter alia*, with enforcing Section 1036(a)(1)(B) of the Consumer Financial Protection Act, which prohibits any provider of consumer financial products or services from engaging in unfair and deceptive acts or practices; and the FCRA, which imposes duties upon consumer reporting agencies.

¹³ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-invokes-dormant-authority-to-examine-nonbank-companies-posing-risks-to-consumers/>

¹⁴ <https://www.rocketcompanies.com/who-we-are/about-us/>.

Mortgage, Rocket Homes, and Rocket Auto.¹⁵ Rocket Companies and its subsidiaries have been the subject of numerous lawsuits alleging violations of consumer protection laws.¹⁶

D. Rocket Money (formerly known as Truebill)

Rocket Money is a Rocket Companies subsidiary chartered in Delaware and headquartered in Silver Spring, Maryland. Rocket Money is a financial services app that provides bill negotiation, budgeting, automated savings, and credit score services. As of December 2022, Rocket Money self-reports that it has over 3.4 million members.¹⁷

E. Plaid

Plaid is a Delaware company that is headquartered in San Francisco, California. Rocket Money works with Plaid, a third-party service, to interface with financial institutions in its users' stead. When a new user wants to create a Rocket Money account, they are first required to link their checking and credit card accounts to Rocket Money via Plaid.¹⁸ Users connect their banking accounts by giving Plaid their bank login information, and Plaid then gives Rocket Money access to users' transaction history and other banking information.

Plaid has faced legal scrutiny recently for alleged invasion of privacy, intrusion into private affairs, and unjust enrichment.¹⁹ Plaid reached a \$58 million class action settlement with additional injunctive relief.²⁰

III. CFPB's Authority Over Fintech

The CFPB has enforcement authority under the Dodd-Frank Act over unfair, deceptive, or abusive practices perpetuated by consumer financial services.²¹ The Act also grants the CFPB rulemaking authority and supervisory authority for detecting and assessing risks to consumers.²²

¹⁵ Press Release, Rocket Companies, *Rocket Companies to Acquire Truebill, Adding Rapidly Expanding Financial Empowerment FinTech to the Rocket Platform* (Dec. 20, 2021), <https://ir.rocketcompanies.com/news-and-events/press-releases/press-release-details/2021/Rocket-Companies-to-Acquire-Truebill-Adding-Rapidly-Expanding-Financial-Empowerment-FinTech-to-the-Rocket-Platform/default.aspx> (last accessed Oct. 13, 2022).

¹⁶ See, e.g., *Romero v. Rocket Mortgage, LLC*, 22-cv-01323 (C.D. Cal. 2022) (accusing Rocket Mortgage of placing unlawful telemarketing calls and text messages to consumers' cell phones without first securing their consent to be contacted); *Doris Shenwick Trust v. Rocket Cos.*, No. 2021-0780 (Del. Ch. Sept. 9, 2021) (accusing Rocket Companies founder, Daniel Gilbert, of using non-public information to sell \$500M in shares).

¹⁷ Ex. 1 (Rocket Money on the App Store).

¹⁸ See Ex. 2, 3, 4 (Rocket Money Onboarding 3, 4, 5)

¹⁹ *In re Plaid Inc. Privacy Litig.*, No. 20-cv-3056 (N.D. Cal. 2021).

²⁰ *Id.*

²¹ CFPB *Unfair Deceptive Abusive Acts Practices UDAAPS Procedures* (March 2022).

²² *Id.*

In 2022, the CFPB announced that it will exercise increased authority under the Dodd-Frank Act over certain “nonbanks,” also known as “fintechs.”²³ Fintech, a portmanteau of the words “financial technology,” refers to a fast-growing sector of companies that use new technologies to compete with traditional financial services firms to assist users in achieving their financial goals. Rocket Money is a clear example of “fintech,” and the CFPB is able to exert authority over the app through the authority granted to the CFPB by Congress.

The CFPB has authority to interpret and enforce the FCRA, including under section 1022(b)(1) of the Dodd-Frank Act,²⁴ which authorizes guidance as necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of federal consumer financial laws.²⁵ The United States Court of Appeals for the First Circuit described the CFPB recently as “the principal enforcer of the FCRA.”²⁶

IV. Rocket Money Engages in Unfair, Deceptive, and Abusive Trade Practices in Violation of Federal Consumer Protection Law.

In today’s increasingly digital world, it should be no surprise that the majority of people in the United States use some type of digital banking app.²⁷ One type is budgeting apps, which often trade on the promise of saving its users money by providing spending insights, budgeting tips, and other services. Rocket Money is one such budgeting app that promises to “empower [consumers] to save more, spend less, see everything, and take back control of your financial life.”²⁸

The reality of Rocket Money is very different, however. Throughout the marketing and distribution of its app and other services, Rocket Money engages in unfair, deceptive, and abusive practices that harm consumers.²⁹ Specifically, Rocket Money (A) uses dark patterns to deceive users into giving up private financial data without meaningful notice, (B) forces users to link their bank accounts with Plaid, a known abuser of consumer data, (C) deceives users into

²³ CFPB Invokes Dormant Authority to Examine Nonbank Companies Posing Risks to Consumers (Apr. 25, 2022), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-invokes-dormant-authority-to-examine-nonbank-companies-posing-risks-to-consumers/>.

²⁴ Pub. L. 111-203, 124 Stat. 1376 (2010).

²⁵ 12 U.S.C. 5512(b)(1).

²⁶ *McIntyre v. RentGrow, Inc.*, 34 F.4th 87, 90 (1st Cir. 2022).

²⁷ According to one study, 65.3% of people in the United States use digital banking in 2022. Accenture & eMarketer, *Share of population using digital banking in the United States from 2018 to 2022*, Statista, <https://www.statista.com/statistics/946109/digital-banking-users-usa/> (last visited October 23, 2022).

²⁸ Ex. 5 (Rocket Money Home Page)

²⁹ Title X of the Dodd-Frank Act, the Consumer Financial Protection Act, states that it is unlawful for any provider of consumer financial products or services or a service provider to engage in any “unfair, deceptive or abusive act or practice.” While the elements for each type of illegal act are different, facts relevant to unfairness and deception claims frequently overlap.

paying for services that were marketed as free, (D) falsely advertises its data protection practices, (E) deceives users into paying a higher fee for Bill Negotiation services, (F) charges an unfair and abusive fee for Bill Negotiation services, (G) perpetuates an abusive refund service for Bill Negotiation, and (H) does not actually return Bill Negotiation customers' money.

Rocket Money violates Section 1036(a)(1)(B) of the Consumer Financial Protection Act³⁰ because of these unfair, deceptive, and abusive practices.

A. Rocket Money Uses Dark Patterns to Deceive Consumers Into Giving Up Their Private Financial Data Without the Complete Knowledge of the Cost of Services.

1. Users Only Discover That Rocket Money Services Are Costly *After* Linking Their Bank Accounts.

Rocket Money lists itself as free to download on its home page, enticing users to sign up for its advertised budget-helping services.³¹ Because of the order of these screens during the onboarding process, users only discover the price of most of the Rocket Money services *after* they have already linked their bank accounts and allowed Rocket Money access to their sensitive financial data.

After downloading the app, users begin the sign-up process for Rocket Money by first entering their personal information and linking to their bank accounts via Plaid.

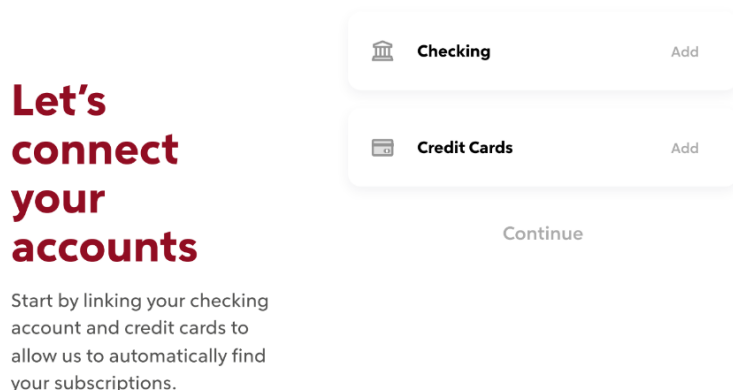


Figure A.³²

³⁰ 12 U.S.C. § 5536(a)(1)(B).

³¹ Ex. 5 (Rocket Money Home Page) ("Download Rocket Money for free on the iOS and Google Play stores – or sign up online today.").

³² Portion of the web pages also shown in Ex. 2 (Rocket Money Onboarding 3).

Once users have successfully linked checking and credit card accounts to Rocket Money, they are directed to the payment page and instructed to “pay what [they] think is fair.”

We're in this together

We trust that if we bring you value, you'll support us fairly. It might sound crazy, but we think you should pay what you think is fair.

with Premium you get:

- ✓ Automated cancellations
- ✓ Unlimited budgets
- ✓ Smart Savings
- ✓ Overdraft & late fee refunds
- ✓ Chat with our experts

Pay what you think is fair

Most people pick \$8

\$7
/month

\$8
/month

\$9
/month

Choose custom amount

7 day free trial, cancel anytime

Continue

I authorize Rocket Money to electronically debit my account for \$8/month. I understand I may cancel my subscription at any time via chat in the app or by emailing support@rocketmoney.com.

Figure B.³³

It is on this page that users first learn that many of Rocket Money’s advertised features (such as subscription cancellation) are paid premium features.³⁴

2. The Bait-And-Switch Nature of the Onboarding Process Is Unfair to Users.

Rocket Money profits off of users’ personal financial data,³⁵ and it collects such data prior to users having the necessary information to decide whether they want to turn over their data. Rocket Money lists itself as free to download on its home page, where it also lists its most attractive features, such as subscription tracking/cancellation, full credit reports, and budget creation.³⁶ All of these services are only available with a paid subscription, which is not conveyed to the user until *after* they sign up for Rocket Money.

The CFPB has determined that a representation, omission, act, or practice is unfair when users experience (1) substantial injury, (2) that is not reasonably avoidable, and (3) that is not outweighed by benefits to consumers or to competition.³⁷ Monetary harms are automatically a

³³ Portion of the web pages also shown in Ex. 6 (Rocket Money Onboarding 9).

³⁴ Ex. 6 (Rocket Money Onboarding 9).

³⁵ See Section IV(B) of this Complaint.

³⁶ Ex. 5 (Rocket Money Home Page) (“Download Rocket Money for free on the iOS and Google Play stores – or sign up online today.”).

³⁷ CFPB *Unfair Deceptive Abusive Acts Practices UDAAPS Procedures* at 1-3 (March 2022).

substantial injury, and a practice that causes a small amount of harm to a large number of people may be deemed to cause substantial injury.³⁸

Rocket Money requires consumers to disclose sensitive financial data prior to learning that services originally believed to be free actually require a paid premium subscription to Rocket Money. The sequence by which Rocket Money collects user data and discloses material information during the onboarding process is an unfair practice: (1) users experience a substantial injury because private financial information is used as a type of “payment”; (2) users cannot reasonably avoid the substantial injury because of the sequence of steps during the Rocket Money onboarding process, and (3) users’ economic injury is not outweighed by benefits to consumers or to competition. Consumers receive no benefit from this practice, as many may stop the onboarding process once they realize the price of Rocket Money’s services, which can only occur after the linking of their bank accounts and subsequent disclosure of their financial information.

The injury caused to users by this bait-and-switch is substantial. Users either feel obligated to pay for services that they thought would be free because they have already turned over their financial data, or users turn over their financial data and do not receive any of the purported services in return. In other words, while *some* users might choose to pay for premium services they first considered to be free, all users have to give Rocket Money their bank information to get to the deciding stage; Rocket Money’s solicitation of their sensitive financial data before providing any service causes the substantial injury.

Additionally, first-time users of Rocket Money may not reasonably avoid either injury, as they did not receive the necessary information from Rocket Money to be able to compare available alternatives. They did not know that they would need to pay money for Rocket Money’s best services until after they had given up their financial data.

Finally, there are no consumer benefits that outweigh the costs of Rocket Money’s bait-and-switch scheme. Many consumers may stop the onboarding procedure altogether once they realize that most of Rocket Money’s advertised services require a monthly or annual fee. If this is the case, consumers have essentially given away their private financial data without receiving anything in return. There are no benefits to competition that could not be achieved through other, fairer means.

Rocket Money would not incur any substantial costs in order to correct this practice—it would simply need to switch the order of payment and disclosure of personal financial data in its

³⁸ FTC Policy Statement on Unfairness, 104 F.T.C. 949, 1070 (1984; A federal district court has upheld and applied the CFPB’s three articulated elements of an “unfair practice.” *Illinois v. Alta Colls., Inc.*, No. 14 C 3786, 2014 U.S. Dist. LEXIS 123053, at *12-13 (N.D. Ill. Sep. 4, 2014).

onboarding process. Users could first indicate whether they sought free or premium services, and then proceed to provide their sensitive financial information only if required to receive their selected service(s).

B. Rocket Money Forces Users To Link Their Bank Accounts with Plaid, Inc., a Known Abuser of Consumer Data.

1. Rocket Money Users Must Link Their Bank Accounts with Plaid During Onboarding.

As discussed above, in order to access Rocket Money’s services, users must link their bank account via Plaid. Rocket Money presents users with a screen that informs users “Rocket Money uses Plaid to connect your account” and reassures users that “[their] data belongs to [them]. Plaid doesn’t sell personal info, and will only use it with your permission.”³⁹ What is not communicated to users, however, is that Plaid operates as a data aggregator and data brokerage company that has monetized consumers’ data. In August 2021, Plaid paid \$58 million to settle a data privacy class action lawsuit that alleged the aggregator scraped financial and personal information from apps that used the company’s software, without consumers’ knowledge or consent.⁴⁰

Moreover, the assurance that “Plaid doesn’t sell personal info” does not account for a carveout in Plaid’s Privacy Policy that allows for Plaid to share users’ information “[i]n connection with a change in ownership or control of all or a part of our business (such as a merger, acquisition ...).”⁴¹ Plaid has already considered such a merger: in 2020, it agreed to be purchased by Visa Inc. for \$5.3 billion⁴² in a transaction that would have allowed Visa to purchase the transactional data of millions of consumers.⁴³ The parties only abandoned the deal after the Department of Justice brought an antitrust lawsuit.⁴⁴

³⁹ Ex. 3 (Rocket Money Onboarding 4).

⁴⁰ *Cottle v. Plaid Inc.*, 20-cv-3056 (N.D. Cal.). The settlement also included injunctive relief, with Plaid agreeing to change the design of its standard interface, make “more fulsome” disclosures to consumers, and delete transactional banking data for consumers whose third-party apps did not request that data. Jake Holland, *Plaid Agrees to Pay \$58 Million to Settle Data Privacy Suit*, Bloomberg (Aug. 9, 2021).

⁴¹ Ex. 7 (Plaid Privacy Policy).

⁴² Press Release, Visa, Inc., *Visa to Acquire Plaid* (Jan. 13, 2020), <https://usa.visa.com/about-visa/newsroom/press-releases.releaseId.16856.html#:~:text=Visa%20will%20pay%20total%20purchase,%2C%20Chime%2C%20Transferwise%20and%20Venmo>.

⁴³ Bennett Cyphers, *Visa Wants to Buy Plaid, and With It, Transaction Data for Millions of People*, ELECTRONIC FRONTIER FOUNDATION (Nov. 25, 2020).

⁴⁴ Brent Kendall, AnnaMaria Andriotis and Peter Rudegeair, *Visa Abandons Planned Acquisition of Plaid After DOJ Challenge*, WALL ST. J. (Jan. 12, 2021).

2. Forcing Users to Link Their Bank Accounts with Plaid, Inc. Is an Abusive Practice.

The CFPB has determined that an act or practice is abusive when it “(1) [m]aterially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service or (2) [t]akes unreasonable advantage of: (a) A lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service; (b) The inability of the consumer to protect its interests in selecting or using a consumer financial product or service; or (c) The reasonable reliance by the consumer on a covered person to act in the interests of the consumer.”⁴⁵

Rocket Money meets the second prong of the abusive analysis by taking unreasonable advantage of both (i) a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service and (ii) the reasonable reliance by the consumer on a covered person to act in the interests of the consumer. By giving users no other option than to link their bank accounts via Plaid, a data aggregator that has a history of abusing access to users’ financial data, Rocket Money is taking unreasonable advantage of lack of understanding on the part of the consumer of the material risks, costs, or conditions of the service. Moreover, Rocket Money is taking advantage of the reasonable reliance by consumers on the assumption that Rocket Money will act in their interests. By seeking to reassure consumers that “Your data belongs to you,” Rocket Money is encouraging consumers to trust that Rocket Money is acting in their interests.

C. Rocket Money Uses Dark Patterns To Deceive Users into Paying for Services Advertised As Free.

1. Rocket Money Hides Access to the “\$0” Payment Option During the Sign-Up Process.

After being required to grant access to hand their private financial data via Plaid, Rocket Money’s onboarding process directs users to a page that encourages them to support the company by paying what they “think is fair.”⁴⁶ This payment page is a chokepoint because users are unable to continue in the sign-up procedure without clicking through it. This initial payment page does not provide users with a clear way to access the free services that Rocket Money previously advertised:

⁴⁵ CFPB *Unfair Deceptive Abusive Acts Practices UDAAPS Procedures* at 9 (March 2022).

⁴⁶ Ex. 6 (Rocket Money Onboarding 9).

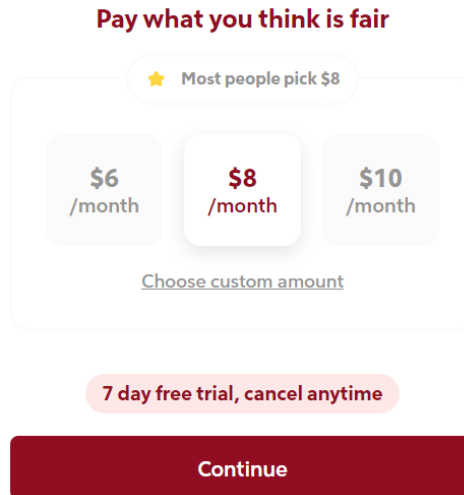


Figure C.⁴⁷

Consumers who click “Choose custom amount”—displayed in a smaller, grayed-out font—to look for the free service options are led to a page with a sliding scale where Rocket Money directs them to select a monthly rate for premium services.

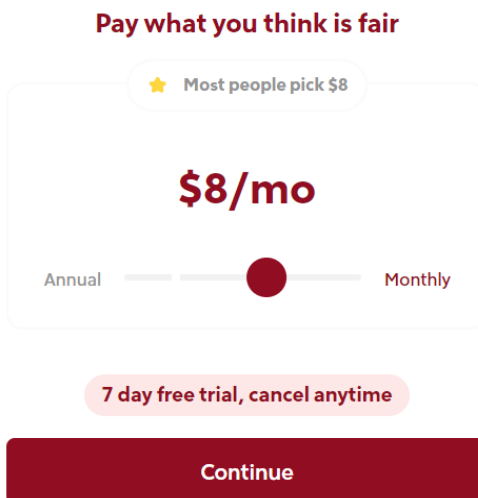


Figure D.⁴⁸

⁴⁷ Portion of the interface also shown in Ex. 6 (Rocket Money Onboarding 9).

⁴⁸ Portion of the interface also shown in Ex. 8 (Rocket Money Onboarding 9.2).

The scale is preset to \$8 and nudges users with the statement that “most people pick \$8.”⁴⁹ There is no clear way to access the free services, as the terms “free” or “\$0” do not appear anywhere on the page.

Even if users continue to try and discover how to access Rocket Money’s free services, Rocket Money’s manipulative design discourages users from paying nothing. If a user slides the scale all the way down to left, the monetary amount displayed will drop to \$0, but this triggers yet another manipulative aspect of the app.

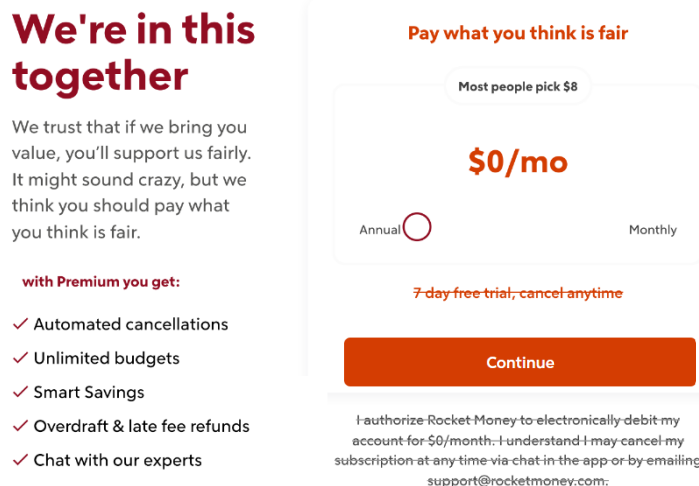


Figure E.⁵⁰

As you can see from Figure E, when the scale is set at \$0, the font color on the page changes from dark red to bright red. Behavioral researchers have proven that even a brief glimpse of bright red triggers avoidance tendencies when someone is trying to achieve something (such as completing a puzzle or going through a tricky app sign-up procedure).⁵¹ In addition to the color change on the Rocket Money page, multiple lines of text become crossed out.⁵²

If users click “continue” after selecting \$0 on the sliding scale, Rocket Money directs them to another page that says “We understand,” followed by further explanation designed to

⁴⁹ Ex. 9 (Rocket Money Onboarding 9.4).

⁵⁰ Portion of the interface also shown in Ex. 10 (Rocket Money Onboarding 9.1).

⁵¹ A. J. Elliot & M. A. Maier, *Color and Psychological Functioning*, 16 *Current Directions in Psychological Science* 250 (2007) (<https://doi.org/10.1111/j.1467-8721.2007.00514.x>).

⁵² Ex. 10 (Rocket Money Onboarding 9.1).

play on users' guilt.⁵³ Even though users have already selected \$0, they are confronted with a dark red box labeled "Choose a price," as if their prior selection was invalid."⁵⁴ Instead of giving users access to the free services they are seeking, clicking on the dark red box leads users to the previously seen sliding scale to sign up to pay for premium.⁵⁵ The button to move on to the next page without signing up for premium is in a less attractive white transparent box with black lettering that ambiguously suggests the user is "skipping" something important and must come back later to attend to it.⁵⁶ Additionally, there is crossed out language below both of the buttons that may be confusing to users, as the language is still legible and illogical.⁵⁷

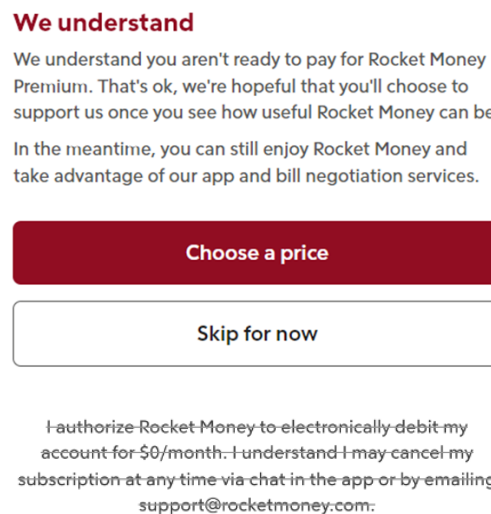


Figure F.⁵⁸

Rocket Money also deceives consumers who decide to pay but choose to pay less than \$5/month for the app. If users select the \$5/month subscription fee, Rocket Money charges them \$5/month. However, if users select a lesser option on the sliding scale,⁵⁹ Rocket Money will actually charge the user a lump annual sum immediately, as opposed to a smaller monthly sum. For example, if a user selects \$4, they will be immediately charged \$48 (\$4 over 12 months), but

⁵³ See Paul Mills & Christopher Groening, *The role of social acceptability and guilt in unethical consumer behavior: Following the crowd or their own moral compass?*, 136 Journal of Business Research 377 (2021) (“[B]uyers who are more prone to experience guilt, pay higher prices.”).

⁵⁴ Ex. 11 (Rocket Money Onboarding 10).

⁵⁵ Ex. 9 (Rocket Money Onboarding 9.4).

⁵⁶ Ex. 11 (Rocket Money Onboarding 10).

⁵⁷ What does it mean to electronically debit an account for \$0/month?

⁵⁸ Portion of the interface also shown in Ex. 11 (Rocket Money Onboarding 10).

⁵⁹ The user is not able to select \$1 or \$2 on the scale.

if they select \$5, then the user would only be immediately charged a \$5 fee. This pay structure is explained to the user in a light gray font below the selection window.⁶⁰

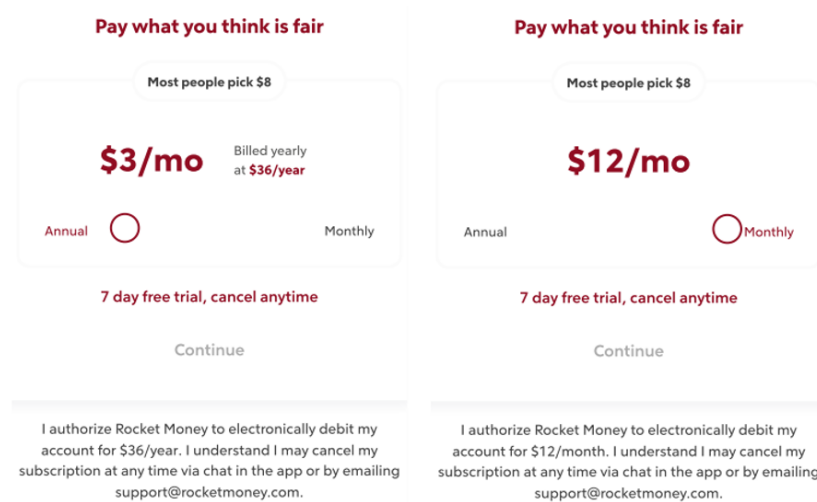


Figure F.⁶¹

Many users presumably subscribe to Rocket Money because they are struggling to afford their monthly subscription fees. Charging them a lump annual sum immediately when users choose to pay a lower monthly amount may prove to be extremely burdensome.

2. It Is a Deceptive Practice to Use Dark Patterns To Hide “Free” Services.

The CFPB has determined that a representation, omission, act, or practice is deceptive when (1) the representation, omission, act, or practice misleads or is likely to mislead the consumer; (2) the consumer’s interpretation of the representation, omission, act, or practice is reasonable under the circumstances; and (3) the misleading representation, omission, act, or practice is material.⁶² Federal courts have upheld the CFPB’s definition and articulation of the elements of a deceptive practice.⁶³

The design of Rocket Money’s website and app is deceptive because it hides access to free services and forces users who are seeking to use the app for free to confront numerous dark

⁶⁰ Ex. 12 (Rocket Money Onboarding 9.3); Ex. 8 (Rocket Money Onboarding 9.2); Ex. 13 (How much does Rocket Money cost).

⁶¹ Portion of the interface also shown in Ex. 8, 12 (Rocket Money Onboarding 9.2, 9.3).

⁶² CFPB *Unfair Deceptive Abusive Acts Practices UDAAPS Procedures* at 5-6 (March 2022).

⁶³ *Consumer Fin. Prot. Bureau v. Ocwen Fin. Corp.*, No. 17-80495-CIV, 2019 U.S. Dist. LEXIS 152336, at *51 (S.D. Fla. Sep. 5, 2019) (“While the CFPA never defines a deceptive practice, courts have ruled that it holds the same meaning as under the Federal Trade Commission Act: that the act or practice is ‘material,’ if it ‘misleads or is likely to mislead the consumer,’ and ‘[t]he consumer’s interpretation of the act or practice is reasonable under the circumstances.’”)

pattern attempts to make them pay a fee. The onboarding process is so misleading that reasonable consumers are likely to interpret the app interface to conclude free services are either unavailable or that they somehow do not qualify for them. The result of this misinterpretation is a monetary loss suffered by the user, and it is therefore clearly a material misrepresentation.

The CFPB evaluates a practice under the first element with the “four Ps” test: prominence (Is the statement prominent enough for the consumer to notice?), presentation (Is the information presented in an easy-to-understand format that does not contradict other information in the package and at a time when the consumer’s attention is not distracted elsewhere?), placement (Is the placement of the information in a location where consumers can be expected to look or hear?), and proximity (Is the information in close proximity to the claim it qualifies?).⁶⁴

First, the link that users need to click in order to move from the first screen to the second screen is not prominent by any means—it is light gray and in a much smaller font than the other font displayed.⁶⁵ Second, the information on how to access the free services is not presented in an easy to understand format. Users must click to the next screen, and even on this next screen, there is no indication that the scale slides to \$0.⁶⁶ Users must drag the scale themselves, *then* click through another screen designed to guilt them into reconsidering. These facts also speak to the third factor, as the placement of the information on how to access free services is not on the original payment screen, and it is therefore not in a location where users can be expected to look. Fourth, the statements made by Rocket Money about its free services are not in close proximity to the payment screens, as Rocket Money claims on its homepage that its services are free but does not present this information anywhere during its onboarding process. Rocket Money markets its services as “free,” but the onboarding process does not provide users a clear way to access the free services. Users must struggle through obscured links and multiple pages and interactions before ever seeing the “\$0” option.⁶⁷ After the long search for the free option, users must face bold red buttons and guilt-inducing text designed to prevent them from finishing the process of obtaining Rocket Money’s services for free.⁶⁸

With regards to the second element, the CFPB analyzes how a reasonable member of the target audience would interpret the representation to determine whether the presentation is misleading. In this case, a user concluding that they have to pay for Rocket Money’s services (which were previously described as free) is a reasonable interpretation to arrive based on the onboarding process. A “significant minority” of consumers are reasonably misled by Rocket

⁶⁴ *Id.*

⁶⁵ See Figure C.

⁶⁶ See Figure D.

⁶⁷ The phrase is “Choose Custom Amount.” See Ex. 6 (Rocket Money Onboarding 9).

⁶⁸ Ex. 11 (Rocket Money Onboarding 10); Ex. 9 (Rocket Money Onboarding 9.4).

Money’s misleading app design.⁶⁹ Consumers who sign up for Rocket Money expecting free services may end up paying a monthly or annual fee when they would have preferred not to pay.⁷⁰

The third element is whether the misrepresentation made to the users is material. For the third element, the CFPB considers a practice material if it is likely to affect a consumer’s choice of, or conduct regarding, the product or service. In this case, Rocket Money’s misrepresentation leads to users paying for a service that they otherwise would not have paid for. Economic harm like this is routinely considered material.⁷¹

Rocket Money’s onboarding process misleads consumers seeking to enjoy the free services Rocket Money advertises and is a deceptive practice under the Dodd-Frank Act. The CFPB should investigate this harmful practice and seek injunctive relief to end it.

D. Rocket Money’s Makes False Promises Regarding User Data Privacy.

1. Rocket Money Promises To Protect Users’ Financial Data Privacy But Sells Their Data to Third Parties.

Many fintech consumers are concerned with the security of their data, given the sensitivity of the financial information they share with such apps.⁷² Rocket Money exploits this well-founded concern by repeatedly assuring its users that their data will not be sold to or used by third parties.

Rocket Money advertises its data privacy practices to consumers before they sign up for the service. On Rocket Money’s website, a consumer-facing web page titled “We’re committed to your security” makes the following guarantee: “Your financial data on our servers will *never be accessed or used by any other party*.”⁷³ Likewise, the very first email that Rocket Money users receive upon signing up for the service welcoming them to the app assures users that “We [Rocket Money] take security very seriously. Like the most seriously. Rocket Money uses the best encryption in the business to keep your data safe. And *unlike other finance apps, we’ll never*

⁶⁹ CFPB *Unfair Deceptive Abusive Acts Practices UDAAPS Procedures* at 6 (March 2022).

⁷⁰ The Ways To Wealth, an independent personal finance website, reviewed Rocket Money and—despite giving it a high rating—referred to Rocket Money’s pricing structure as “complex” and “confusing,” also calling it “the source of a lot of confusion and complaints.” R.J. Weiss, *7 Things To Know Before Signing Up For Rocket Money*, The Ways to Wealth (Aug. 20, 2022) (<https://www.thewaystowealth.com/reviews/rocket-money-review/>).

⁷¹ CFPB *Unfair Deceptive Abusive Acts Practices UDAAPS Procedures* at 4 (March 2022).

⁷² 2021 *Consumer Survey: Data Privacy and Financial App Usage*, THE CLEARING HOUSE, Dec. 2021 (“[C]onsumers need and want greater transparency into fintech apps’ data collection practices and more control over their data. Over half of consumers would like fintech apps to be required to provide clear disclosure of what data third parties will have access to and to provide a clear explanation of the risks associated with using the apps. Likewise, a majority want control over what kind of data third parties can access.” Emphasis added.).

⁷³ Ex. 14 (Rocket Money Initial Email) (emphasis added).

sell your data.”⁷⁴ The fact that this is the first email communication Rocket Money sends to its users illustrates the salience of data privacy to the company’s consumers and the strength of Rocket Money’s promises. Moreover, Rocket Money claims its data privacy practices are different from those of “other finance apps” to distinguish itself from its competitors.⁷⁵

These representations are directly contradicted by provisions in the Rocket Family of Companies’ Privacy Policy (the “Privacy Policy”), which governs Rocket Money. Under “Sharing with Other Third Parties,” the Privacy Policy notes that “We share personal information with third parties for their own services and marketing purposes, analytics, and in some cases to jointly market and provide products and services with third parties.” Personal information is elsewhere defined in the Privacy Policy to include users’ financial data,⁷⁶ thus contradicting Rocket Money’s representation that users’ “financial data ... will never be accessed or used by any other party.”

The Privacy Policy further describes scenarios in which “Rocket has shared personal information with third parties or Affiliates, in exchange for valuable consideration.” This qualifies as selling consumer data under various state privacy acts, including the California Consumer Protection Act (CCPA)⁷⁷ and the Colorado Privacy Act.⁷⁸ Further, under the CCPA’s definition of selling consumer data, the Rocket Family of Companies “‘sell’ personal information for the following commercial purposes: to enable our Affiliates and certain third parties to use your information in accordance with their privacy policies.”⁷⁹

Moreover, the Privacy Policy provides an opt-out for California residents, which links to a page titled “Do Not Sell My Personal Information.” This page acknowledges “If you’re a California resident, the California Consumer Privacy Act (CCPA) permits you to request to opt out of the ‘sale’ of your personal information to third parties.” In order to utilize this opt-out function, users must check a box attesting “I am a California resident and certify that the information provided is true and accurate.” There is no equivalent opt-out for non-California residents. The very existence of an opt-out function presupposes that Rocket Money is selling

⁷⁴ Ex. 5 (Rocket Money Homepage) (emphasis added).

⁷⁵ *Id.*

⁷⁶ Ex. 15 (Privacy Policy) (“[W]e have collected the following categories of *personal information* ... bank account number, credit card number, debit card number, and other financial information (including credit report, salary, and net worth).” (Emphasis added).)

⁷⁷ Section 1798.140(t)(1) of the CCPA (“‘Sell,’ ‘selling,’ ‘sale,’ or ‘sold,’ means selling, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating orally, in writing, or by electronic or other means, a consumer’s personal information by the business to another business or a third party for monetary or other valuable consideration”)

⁷⁸ Section 23(b) of the Colorado Privacy Act (“‘Sale,’ ‘sell,’ or ‘sold’ mean the exchange of personal data for monetary or other valuable consideration by a controller to a third party”).

⁷⁹ Ex. 15 (Privacy Policy)

users' data, just like the "other finance apps" it claims to be different from. In this way, Rocket Money's representation that "we'll never sell your data" is false.

2. Rocket Money's Promises and Subsequent Treatment of Users' Data is Deceptive.

The CFPB has explained that a representation, omission, act, or practice is deceptive when (1) the representation, omission, act, or practice misleads or is likely to mislead the consumer; (2) the consumer's interpretation of the representation, omission, act, or practice is reasonable under the circumstances; and (3) the misleading representation, omission, act, or practice is material.⁸⁰

The selling of customers' data without their permission—and after specific assurances in marketing materials not to—is a deceptive trade practice.

Rocket Money's representations regarding data privacy are likely to mislead the consumer. Rocket Money's representation that "we'll never sell your data" is a clear, unambiguous statement that is likely to mislead as to Rocket Money's true practice of "shar[ing] personal information with third parties or Affiliates, in exchange for valuable consideration." Similarly, Rocket Money's representation that users' "financial data ... will never be accessed or used by any other party" is likely to mislead, given that the Rocket Companies "share personal information [including users' financial data] with third parties."

Consumers reasonably interpret these misrepresentations under the circumstances. The misrepresentations are presented (i) on a consumer-facing web page on Rocket Money's website and (ii) in a communication sent directly to users from Rocket Money. Both representations are presented in clear language and a consumer-friendly format. The Privacy Policy provisions which reveal Rocket Money's true practices are, on the other hand, far less accessible to an average consumer: such terms are written in legal vernacular and buried within a lengthy document.⁸¹ It is unlikely that a layperson would understand that "shar[ing] ... in exchange for valuable consideration" is tantamount to "selling." Rocket Money's users will likely rely on the misleading representation in choosing to sign up for and use Rocket Money's services. In this

⁸⁰ CFPB *Unfair Deceptive Abusive Acts Practices UDAAPS Procedures* at 5-6 (March 2022).

⁸¹ A vast majority of consumers do not even open, let alone read, privacy policies. *See, e.g.*, Yannis Bakos, Florenica Marotta-Wurgler, and David Trossen, *Does Anyone Read the Fine Print? Consumer Attention to Standard Form Contracts* (Jan. 1, 2014), J. OF LEGAL STUDIES, Vol. 43, No. 1, 2014, CELS 2009 4th Annual Conference on Empirical Legal Studies Paper, NYU Law and Economics Research Paper No. 09-40, Available at SSRN: <https://ssrn.com/abstract=1443256> (finding that "only one or two of every 1,000 [consumers] access the license agreement and that most of those who do access it read no more than a small portion"). *See also*, Debra Cassens Weiss, *Chief Justice Roberts Admits He Doesn't Read the Computer Fine Print*, ABA J. (Oct. 20, 2010).

way, Rocket Money causes its users financial harm, as such users are paying for a service that they otherwise may not have paid for.

Rocket Money's representations regarding users' financial data privacy are deceptive practices under the Dodd-Frank Act. The CFPB should investigate this harmful practice and seek injunctive relief to end it.

E. The Bill Negotiation Service Employs Dark Patterns to Manipulate Users into Giving a Higher Percentage of Their Savings.

1. Similar to the Sign-Up Procedure, Rocket Money Hides Lower Cost Options for Bill Negotiation.

Once the user has signed up, Rocket Money advertises a service called "Bill Negotiation."⁸² Rocket Money agents offer to negotiate with a specified company to lower a customer's bill in exchange for a fee based on the amount saved as a result of the negotiation.⁸³

To initiate the Bill Negotiation service, a user must place a request through the Rocket Money user portal. After inputting their bill information, a user is directed to select Rocket Money's negotiation fee. While the negotiation fee can range from 40 to 60 percent of the savings earned through Rocket Money's negotiation, Rocket Money's user interface strongly suggests that users should select 50 percent.⁸⁴

⁸² Bill Negotiation services are separate from premium features, and they may be used by any user, even if the user has opted out of paying a monthly fee.

⁸³ Ex. 16 (How to lower your Bills with Rocket Money).

⁸⁴ Ex. 17 (Rocket Money Bill Negotiation 3).

We're ready to lower your bill

We ask for a percentage of your first year's savings as a success fee.
You choose how to split the savings and only pay if we save you money.

Pay what you think is fair

Most people pick 50%

40%
of savings

50%
of savings

60%
of savings

[Choose custom amount](#)

Continue

*Figure G.*⁸⁵

Additionally, the initial negotiation fee page has a link in small gray font that allows the user to “choose a custom amount.”⁸⁶ This link leads the user to another page where users can select from 30 to 70 percent, although the website still suggests that people select 50%.⁸⁷

We're ready to lower your bill

We ask for a percentage of your first year's savings as a success fee.
You choose how to split the savings and only pay if we save you money.

Pay what you think is fair

Most people pick 50%

50%
of savings

Continue

*Figure H.*⁸⁸

⁸⁵ Portion of the interface also shown in Ex. 17 (Rocket Money Bill Negotiation 3).

⁸⁶ Ex. 17 (Rocket Money Bill Negotiation 3).

⁸⁷ Ex. 18 (Rocket Money Bill Negotiation 4); *see also* Ex. 19 (Rocket Money Bill Negotiation 4.1).

⁸⁸ Portion of the interface also shown in Ex. 17 (Rocket Money Bill Negotiation 3).

After a customer selects a percentage and presses the continue button, they are led to the final screen before submitting their Bill Negotiation services request. On this screen, the customer is instructed to choose a payment method. There is small gray text which informs the customer that they are agreeing to the Rocket Money Bill Negotiation Terms of Service, although there is no box that users must check or any paraphrasing of relevant terms.

Terms of Service.' At the bottom is a large red button with the text 'Save and submit' in white."/>

Submit your bill

Choose your payment method below.
If we don't find you savings, you pay nothing.

Card Number 1234 1234 1234 1234	Expiration MM / YY	CVV 000
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I hereby authorize Rocket Money to contact AT&T on my behalf in order to negotiate a better rate for my service. I also agree to the Rocket Money Bill Negotiation [Terms of Service](#).

Save and submit

Figure I.⁸⁹

Nowhere on the Bill Negotiation Website Home Page or during the sign-up process are users informed of the refund procedure or how Rocket Money calculates its total Bill Negotiation fee.

2. Bill Negotiation's Dark Patterns are Deceptive to Customers.

The dark patterns used in Bill Negotiation pricing are a deceptive practice. A representation, omission, act, or practice is deceptive when (1) the representation, omission, act, or practice misleads or is likely to mislead the consumer; (2) the consumer's interpretation of the representation, omission, act, or practice is reasonable under the circumstances; and (3) the misleading representation, omission, act, or practice is material.⁹⁰

The CFPB evaluates a practice under the first element with the “four Ps” test: prominence (Is the statement prominent enough for the consumer to notice?), presentation (Is the information presented in an easy-to-understand format that does not contradict other information in the package and at a time when the consumer's attention is not distracted elsewhere?), placement (Is the placement of the information in a location where consumers can be expected to look or

⁸⁹ Portion of the interface also shown in Ex. 17 (Rocket Money Bill Negotiation 3).

⁹⁰ CFPB *Unfair Deceptive Abusive Acts Practices UDAAPS Procedures* at 5-6 (March 2022).

hear?), and proximity (Is the information in close proximity to the claim it qualifies?).⁹¹ In this case, the information is not presented in an easily understandable format, as it appears in two different slides, and users must slide the scale to even find out what the lowest percentage is. Additionally, the lowest rate of 30% is not placed on the initial screen, and users must locate a link that is not displayed prominently in order to access the second screen.

A reasonable user would assume that they would need to pay higher than the 30% minimum, as the language is designed to convince users to select 50% (“Most people pick 50%”).

Finally, Rocket Money’s representations are also material. If users fall prey to these dark patterns, then they are likely to pay a higher price for the Bill Negotiation services. Such financial costs are material.⁹²

F. Concealment of the Annual Fee for Bill Negotiation Services is Abusive.

1. Rocket Money Charges Hefty Fees for Bill Negotiation Services Before Providing Any Benefits to Users.

Through its website, Rocket Money suggests that the Bill Negotiation service will be an immediate financial net positive for the consumer, as the fee will only apply once Rocket Money has secured savings from the lower bill, and that the fee is always based on the actual savings achieved. In reality, Rocket Money charges a large negotiation fee before the user realizes their total actual savings.

Rocket Money calculates the negotiation fee by taking the projected amount of savings the customer may realize from the negotiation over a 12-month period and multiplying that amount by the percentage preselected by the customer—a fact which is not stated anywhere in the Bill Negotiation sign-up process.⁹³ Rocket Money leaves its statements about its fees vague, such as on its Bill Negotiation Website Home Page, when it states: “We split the savings. Our fee is 40% of your savings. If you save \$100, we take \$40. If we can’t negotiate any savings, you pay nothing.” Rocket Money does not indicate if the \$100 savings in its example is per month or per year, or if they will charge it in monthly installments or an annual lump sum. Customers are charged for an annual lump sum negotiation fee for the entire 12 months of savings upfront before the user realizes the total amount of savings which the fee is based on.⁹⁴

⁹¹ *Id.*

⁹² *CFPB Unfair Deceptive Abusive Acts Practices UDAAPS Procedures* at 6-7 (March 2022).

⁹³ Ex. 20 (Rocket Money Terms of Service 19).

⁹⁴ *Id.*

For example, if customers select the 50% option during the Bill Negotiation sign-up process (as Rocket Money urges them to do), then customers will pay a large lump fee to Rocket Money immediately after the negotiation is complete, and they will not break even on that fee for the first six months. Only after those six months will they begin to see any savings from the Bill Negotiation.

2. The Negotiation Fee is Unfair and Abusive.

Negotiating lower bills is advertised as one of Rocket Money's most innovative and cost-effective services, but it is just the opposite. It charges users a potentially large sum of money before users realize their total savings from the service.⁹⁵

i. Unfair Practice Framework

The Bill Negotiation service is an unfair practice because users are charged a large “success” fee before the new rate of the bill even takes effect.⁹⁶ This practice meets all three elements of an unfair practice: (1) users experience an economic—and therefore substantial—injury; (2) users cannot reasonably avoid the economic injury because of the information asymmetry caused by Rocket Money, and (3) users' economic injury is not outweighed by benefits to consumers or to competition, which is evident in part from the arduous and circular Bill Negotiation refund process.⁹⁷

As discussed above, Bill Negotiation is a service in which Rocket Money agents negotiate with a specified company to attempt to lower a customer's bill in exchange for a fee based on the amount saved as a result of the negotiation.⁹⁸ Users are charged a fee for this service before the entire savings from Bill Negotiation are realized, which will often lead to a fee higher than the immediate savings seen by the customer.⁹⁹ This practice conflicts with Rocket Money's promise to “empower you to save more,”¹⁰⁰ as consumers will actually be charged money before ever internalizing any savings from the Bill Negotiation, leading to a potential savings loss.

⁹⁵ The fees charged for Bill Negotiation also constitute “junk fees.” Junk fees fall under the unfairness prong of the UDAAP, as described by the CFPB. The CFPB has an “initiative to save households billions of dollars a year by reducing exploitative junk fees charged by banks and financial companies.” Rocket Money is a financial company, and is therefore subject to CFPB policies surrounding junk fees. Junk fees are unexpected fees for a product or service and/or fees that seem too high for the purported service, both of which apply to the negotiation fee charged by Rocket Money for Bill Negotiation. Rocket Money claims that it only charges what it saves, but then charges a 12-month lump fee from users who engage in Bill Negotiation, which makes the fee “unexpectedly high.”

⁹⁶ Ex. 20 (Rocket Money Terms of Service 19).

⁹⁷ CFPB *Unfair Deceptive Abusive Acts Practices UDAAPS Procedures* at 1-3 (March 2022).

⁹⁸ Ex. 16 (How to lower your Bills with Rocket Money).

⁹⁹ Ex. 20 (Rocket Money Terms of Service 19).

¹⁰⁰ Ex. 5 (Rocket Money Home Page).

Furthermore, the refund request process is arduous and insufficient. Users must read through Rocket Money's entire Terms of Service before even finding the necessary procedure to request a refund, as it is not available in the user portal, and the only refund available to customers is a credit with Rocket Money that can be used for future Bill Negotiations.¹⁰¹

Rocket Money's Bill Negotiation practice hinders a user's decision-making because it hides the actual cost and effect of agreeing to have a bill negotiated.

Because of Rocket Money's design of the Bill Negotiation service, users suffer economic harm: a large fee is charged for a service offered by a company that purports to save users money with this service but in fact costs them money.

Additionally, consumers are not able to easily avoid this substantial harm. The only information users receive about the negotiation fee when signing up for the service is a small, gray font that states, "We ask for a percentage of your first year's savings as a success fee."¹⁰² In reality, a percentage of the savings is required, as users cannot physically select any percentage below 30 percent. There is no mention of this fee being charged before the users' savings are realized. Once the user discovers the reality of the negotiation fee, the refund process is well hidden and insufficient to supply any type of remedy. The only possibility of discovering the true nature of the negotiation fee is by reading Rocket Money's Terms of Service. The Terms of Service are linked on the last page before a user submits the Bill Negotiation request, but the terms are mentioned in small, light font with no box next to it for users to click indicating they have read them.¹⁰³ This harm could be easily avoided by having Rocket Money more clearly describe the pricing details and offer a more easily accessible and actual refund, as opposed to a refund for Bill Negotiation credit.

Finally, the injury suffered by the users of Bill Negotiation is not outweighed by benefits to consumers or to competition. This is evident in part from the refund process. If there were benefits to users, then the refund process would not be so arbitrary and circular. It is impossible for users to get any of their money returned directly to them if something goes wrong, such as the discount being discarded or the user canceling the bill before an entire calendar year. Additionally, if there were benefits to competition, then these benefits would still remain without the needless hiding of fees.

¹⁰¹ Ex. 20 (Rocket Money Terms of Service 19-20).

¹⁰² Ex. 21 (Rocket Money Bill Negotiation 5) (emphasis added).

¹⁰³ Ex. 21 (Rocket Money Bill Negotiation 5).

ii. Abusive Practice Framework

Charging customers the lump annual fee for Bill Negotiation Services is also an abusive practice. An act or practice is abusive when it “(1) Materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service or (2) Takes unreasonable advantage of: (a) A lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service; (b) The inability of the consumer to protect its interests in selecting or using a consumer financial product or service; or (c) The reasonable reliance by the consumer on a covered person to act in the interests of the consumer.”¹⁰⁴

Rocket Money meets the first prong of the analysis by not explaining that the negotiation fee will be charged as a lump annual sum and leaving its examples of Bill Negotiation payment purposefully vague. Due to Rocket Money’s representations, customers are not able to understand that they will be charged the negotiation fee in a way that will cause them not to break even for months.

Rocket Money meets the second prong of the abusive analysis by taking unreasonable advantage of both (a) a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service and (c) the reasonable reliance by the consumer on a covered person to act in the interests of the consumer. First, customers of Bill Negotiation are unable to comprehend the risks and conditions of Bill Negotiation because they do not know how the fee is calculated. For instance, if a customer were planning on moving from her residence in three months but wanted to see if Rocket Money could lower her electricity bill until that move, she would sign up for Bill Negotiation and end up paying Rocket Money more money than she would save, despite Rocket Money’s guarantee that it does not charge you money unless it saves you money. Second, because of Rocket Money’s constant guarantees to save its users money (both in the Bill Negotiation service and the larger app), customers reasonably rely on Rocket Money not to charge them large, unexplained fees, which is the opposite of saving users money.

G. The Bill Negotiation Refund Process is Extremely Burdensome.

1. Rocket Money Creates Barriers to Access Refunds for Its Bill Negotiation Service.

The final screen customers see before submitting their Bill Negotiation services request does not contain any information about the refund process. There is small gray text which

¹⁰⁴ CFPB *Unfair Deceptive Abusive Acts Practices UDAAPS Procedures* at 9 (March 2022).

informs the customer that they are agreeing to the Rocket Money Bill Negotiation Terms of Service, although there is no box that users must check or any paraphrasing of relevant terms.

Terms of Service.' At the bottom is a red button labeled 'Save and submit'."/>

Submit your bill

Choose your payment method below.
If we don't find you savings, you pay nothing.

Card Number 1234 1234 1234 1234	Expiration MM / YY	CVV 000
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I hereby authorize Rocket Money to contact AT&T on my behalf in order to negotiate a better rate for my service. I also agree to the Rocket Money Bill Negotiation [Terms of Service](#).

Save and submit

Figure J.¹⁰⁵

Nowhere on the Bill Negotiation Website Home Page or during the sign-up process are users informed of the refund procedure.

If a user decides to cancel their outside subscription before they can realize a full 12 months of savings, they must file a written refund request for the remaining months with Rocket Money within 30 days of the cancellation.¹⁰⁶ This refund process is buried in Rocket Money's Terms of Service, and users must read through 18 pages (approximately 6,870 words) before finding the refund request procedure, as it is not available in the user portal. The Terms of Service give no details about any appeals process for refund denials, outside of a generic arbitration clause that covers all possible claims related to Rocket Money's services.¹⁰⁷

2. Rocket Money's Bill Negotiation Refund Process Is Abusive.

An act or practice is abusive when it “(1) Materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service or (2) Takes unreasonable advantage of: (a) A lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service; (b) The inability of the consumer to protect its interests in selecting or using a consumer financial product or service; or (c) The

¹⁰⁵ Portion of the interface also shown in Ex. 17 (Rocket Money Bill Negotiation 3).

¹⁰⁶ Ex. 20 (Rocket Money Terms of Service 19).

¹⁰⁷ *Id.*

reasonable reliance by the consumer on a covered person to act in the interests of the consumer.”¹⁰⁸

Rocket Money fulfills the first prong of the abusive analysis by materially interfering with the ability of a consumer to understand a term or condition of Rocket Money’s Bill Negotiation service. The refund process is buried in Rocket Money’s Terms of Service as described above, and it is not available in the user portal.

Rocket Money also fulfills the second prong of the abusive analysis by taking unreasonable advantage of consumers’ inability to protect their interests in selecting or using the Bill Negotiation service. If a user decides to cancel their subscription before they can realize a full 12 months of savings, they must file a written refund request for the remaining months with Rocket Money within 30 days of the cancellation.¹⁰⁹ Despite being a fintech app with an entirely digital interface, Rocket Money requires users to submit refunds via written requests. Rocket Money is taking advantage of its consumers’ inability to protect their interests through its burdensome refund process.

H. The Bill Negotiation Refund Process Does Not Return Users’ Money and Locks Them into Rocket Money’s Services.

1. Users who Seek a Refund for Rocket Money’s Bill Negotiation Service Can Only Receive Credit for Future Bill Negotiation Services.

If a customer does manage to overcome the obstacles Rocket Money puts in place to obtain a refund, the customer will not receive their money back. The only refund available to customers is a credit with Rocket Money that can be used for future Bill Negotiations.¹¹⁰ The only place in which this is communicated to consumers is on the eighteenth page of Rocket Money’s Terms of Service.¹¹¹

2. Rocket Money’s Refusal to Offer a Monetary Refund for Bill Negotiation is Abusive.

An act or practice is abusive when it “(1) Materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service or (2) Takes unreasonable advantage of: (a) A lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service; (b) The inability of the consumer to protect its interests in selecting or using a consumer financial product or service; or (c) The

¹⁰⁸ CFPB *Unfair Deceptive Abusive Acts Practices UDAAPS Procedures* at 9 (March 2022).

¹⁰⁹ Ex. 20 (Rocket Money Terms of Service 19).

¹¹⁰ Ex. 20 (Rocket Money Terms of Service 19-20).

¹¹¹ *Id.*

reasonable reliance by the consumer on a covered person to act in the interests of the consumer.”¹¹²

Rocket Money fulfills the first prong of the abusive analysis by materially interfering with the ability of a consumer to understand a term or condition of Rocket Money’s Bill Negotiation service. The refund process is buried in Rocket Money’s Terms of Service. Users must read through 18 pages of Rocket Money’s Terms of Service before discovering that the “refund” available to them is, in fact, just a credit for the service they are currently seeking to cancel.¹¹³

V. Rocket Money Violates the FCRA.

A. Rocket Mortgage Functions as a Consumer Reporting Agency.

1. Factual Background Regarding Rocket Money’s Role as a CRA.

Rocket Money’s business practices violate the FCRA because Rocket Money operates as a Consumer Reporting Agency (“CRA”) but does not “limit the furnishing of consumer reports to the purposes listed under Section 604,” as required by Section 607(a).¹¹⁴

Consumer credit reports have a significant impact on an individual’s participation in society, from employment outcomes to mortgage eligibility. Because of this, the Fair Credit Reporting Act (“FCRA”) provides important protections for credit reports, consumer investigatory reports, and employment background checks. By collecting personal and financial information from users’ linked bank accounts and then sharing that information with other Rocket Companies and third parties, Rocket Money operates as a Consumer Reporting Agency, an entity that assembles and sells credit information and financial information about individuals. However, by sharing consumer reports with other Rocket Family entities and third parties without a “permissible purpose,” Rocket Mortgage violates section 604 of the FCRA. In this way, Rocket Money exposes consumers to the same risks posed by CRAs, without the protection of the FCRA.

Rocket Money collects a vast quantity of information about its users.¹¹⁵ Much of this information correlates to information compiled by CRAs. The Federal Reserve defines a credit

¹¹² CFPB *Unfair Deceptive Abusive Acts Practices UDAAPS Procedures* at 9 (March 2022).

¹¹³ Ex. 20 (Rocket Money Terms of Service 19-20).

¹¹⁴ 15 U.S.C. § 1681b.

¹¹⁵ Ex. 15 (Privacy Policy) (noting that the information collected about users “could include” users’ “Name; Email address; Postal address; Phone number; Social security number; Location and approximate value of your property;

report as a record about a person’s credit history that includes information about their identity, existing credit, public record, and inquiries about them.¹¹⁶ The chart below illustrates how the categories of information collected pursuant to Rocket Money’s Privacy Policy correspond to the categories of information that may be included on a credit report.

Federal Reserve Credit Report Definition ¹¹⁷	Categories of Information Collected Pursuant to Rocket Money’s Privacy Policy ¹¹⁸
“Your identity. Your name, address , full or partial Social Security number , date of birth, and possibly employment information .”	“ Name , alias, postal address , online identifier (including IP address), email address, Social Security number , driver’s license number, or other similar identifiers.” “[F]inancial account information... employment information ”
“Your existing credit. Information about credit that you have, such as your credit card accounts , mortgages, car loans , and student loans . It may also include the terms of your credit, how much you owe your creditors, and your history of making payments.”	“[F]inancial account information, information about account balance, information about credit accounts , information about loan accounts, information about investment accounts, identifiers and information about account owners, information about account transactions and employment information” “ [L]oan products or services you have used in the past”

Vehicle information, such as make, model, VIN and vehicle features; Age; Demographic information, such as race, ethnicity and gender gathered pursuant to federal requirements; Related loan products or services you have used in the past; Financial information, such as income, assets and net worth; Home ownership status and employment status; Insurance information; Other profile data, including your interests and preferences; Any other information you choose to provide.” This is in addition to information that is (i) automatically collected, (ii) collected from other sources, or (iii) “derived” from the information Rocket Money has access to.)

¹¹⁶ Board of Governors of the Fed’l Reserve Sys., *Consumers Guide, Credit Reports and Credit Scores*, https://www.federalreserve.gov/creditreports/pdf/credit_reports_scores_2.pdf.

¹¹⁷ *Id.*

¹¹⁸ Ex. 15 (Privacy Policy).

<p>“Your public record. Information about any court judgments against you, any tax liens against your property, or whether you have filed for bankruptcy.”</p>	<p>Rocket Money partners with “companies that assist us with ... property title and appraisal services”</p>
<p>“Inquiries about you. A list of companies or persons who recently requested a copy of your report.”</p>	<p>n/a</p>

Per the Rocket Family Privacy Policy, all categories of personal information, other than internet or other network activity, are shared with “partners (such as mortgage partners or car dealerships ...).” Further, “[the Rocket Family] share[s] personal information with third parties for their own services and marketing purposes, analytics, and in some cases to jointly market and provide products and services with third parties.” Rocket Money shares this consumer information amongst the Rocket Family of Companies.¹¹⁹ This includes Rocket Mortgage, a mortgage loan provider, creating a presumption that information a user shares with Rocket Money may be used to determine that user’s mortgage outcomes.

2. Rocket Money Violates the FCRA by Furnishing Consumer Reports.

The information Rocket Money shares with its partners are “consumer reports” as defined in section 603(d) of the FCRA:¹²⁰

any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s

¹¹⁹ Ex. 15 (Privacy Policy) (“The Rocket Family of Companies use and share your information with each other... to manage and provide and offer you a variety of their services through a broad lifecycle of your personal and financial needs.”)

¹²⁰ 15 U.S.C. § 1681a(d).

creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for (A) credit or insurance to be used primarily for personal, family, or household purposes; (B) employment purposes; or (C) any other purpose authorized under Section 604.

Defining Rocket Money as a CRA is consistent with how CRAs are considered in the current regulatory landscape. The Federal Trade Commission has argued, for example, that data brokers can operate as CRAs and thus be subject to FCRA liability, even where such data brokers themselves claim to not be CRAs.¹²¹

The information Rocket Money furnishes are “consumer reports” because they bear on a consumer’s creditworthiness, character, general reputation, personal characteristics, or mode of living and/or other attributes listed in section 603(d), and are “used or expected to be used . . . in whole or in part” as a factor in determining the consumer’s eligibility for loan or mortgage approval. Rocket Money also expects the information to be used by lenders to evaluate prospective borrower’s applications for mortgages or auto loans, which qualifies under 604(a)(3)(F)(i) as a “legitimate business need . . . in connection with a business transaction that is initiated by the consumer.” Rocket Money expects its reports to be used for FCRA purposes because it acknowledges in its Privacy Policy that it shares its customers’ information with “mortgage partners or car dealerships.”

In providing “consumer reports” Rocket Money is acting as a CRA as defined in section 603(f) of the FCRA. That section defines a CRA as:¹²²

any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

Rocket Money acts as a CRA because it assembles “information on consumers” into consumer reports that it provides to third parties through interstate commerce.

¹²¹ See *USA (on behalf of the FTC) v. Instant Checkmate, Inc.*, 4-cv-00675 (S.D. Cal.), *USA (on behalf of the FTC) v. Infotrack Info. Servs., Inc., and Steve Kaplan*, 14-cv-02054 (N.D. Ill.).

¹²² 15 U.S.C. § 1681a(f).

Section 607(a) of the FCRA requires CRAs to “maintain reasonable procedures . . . to limit the furnishing of consumer reports to the purposes listed under Section 604.”¹²³ These procedures require that CRAs, prior to furnishing users with consumer reports, require users to “identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose.” It also requires CRAs to “make a reasonable effort to verify the identity of a new prospective user and the uses certified by such prospective user prior to furnishing such user a consumer report.”

While acting as a CRA, Rocket Money fails to maintain any procedures required by section 607(a). Rocket Money does not “limit the furnishing of consumer reports to the purposes listed under Section 604,” as required by section 607(a). The Privacy Policy notes that “[the Rocket Family of Companies] share[s] personal information with third parties for their own services and marketing purposes, analytics, and in some cases to jointly market and provide products and services with third parties.” These are not “permissible purposes” as articulated in section 604. Moreover, there is no requirement that these third parties “identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose” as required by section 607(a). Likewise, there is no evidence that Rocket Money “make[s] a reasonable effort to verify the identity of a new prospective user and the uses certified by such prospective user prior to furnishing such user a consumer report.”

B. Rocket Money Obtains and Uses Consumer Reports for Self-Promotional Marketing Purposes.

1. Factual Background Regarding Rocket Money’s Role as a CRA and Use of Consumer Reports for Self-Promotion.

In addition to functioning like a CRA, Rocket Money also obtains and uses consumer reports to market “financial products and services offered by Rocket Money partners” to Rocket Money’s users, in violation of section 604 of the FCRA.

Rocket Money’s Privacy Policy notes that “We [the Rocket Companies] obtain information from third-party sources in certain situations. For example, we may collect information about you from . . . credit bureaus (including your credit report).” Rocket Money’s Terms of Service clarifies those “certain situations” by illustrating that Rocket Money obtains customers’ credit reports for marketing purposes. Rocket Money’s Terms of Service include the following provision: “I hereby authorize Rocket Money to periodically obtain and use consumer reports about me in order to provide me with (1) access to my free credit score, including periodic updates to my credit score, and (2) *recommendations regarding financial products and*

¹²³ 15 U.S.C. § 1681e(a).

services that may be of interest to me, including credit cards, personal loans, home loans and other financial products and services offered by Rocket Money partners.”¹²⁴

2. Rocket Money Violates the FCRA by Obtaining and Using Consumer Reports Without a “Permissible Purpose.”

Rocket Money uses and obtains consumer reports in order to make “recommendations regarding financial products and services that may be of interest to [Rocket Money users].”¹²⁵ Obtaining and using consumer reports for the purpose of targeted marketing violates section 604(f) of the FCRA, which requires that “a person shall not use or obtain a consumer report for any purpose unless” the consumer report “is obtained for a purpose for which the consumer report is authorized to be furnished under [section 604 of the FCRA]” and “the purpose is certified in accordance with FCRA section 607 by a prospective user of the report through a general or specific certification.”¹²⁶

Section 604 of the FCRA identifies an exhaustive list of “permissible purposes” for which consumer reporting agencies may provide consumer reports.¹²⁷ Targeted marketing is not a purpose enumerated by the FCRA. In *TransUnion v. FTC*, the United States Court of Appeals for the D.C. Circuit ruled that such marketing is not a permissible use of credit reports.¹²⁸ In that case, TransUnion sold “lists of names and addresses to target marketers—companies and organizations that contact consumers with offers of products and services. The Federal Trade Commission determined that these lists were ‘consumer reports’ under the Fair Credit Reporting Act and thus could no longer be sold for target marketing purposes.”¹²⁹ The Court agreed, affirming the lower court’s holding that “tradelines” lists are “consumer reports” under the FCRA and could not be sold for target marketing purposes where the lists served as a factor in establishing consumer eligibility.¹³⁰ Similarly, Rocket Money violates section 604(f) of the FCRA by obtaining consumer reports for target marketing, per its Privacy Policy.

Rocket Money thus violates the FCRA by sharing consumers’ data without a permissible purpose and obtaining consumer reports for self-promotional target marketing purposes.

¹²⁴ Ex. 20 (Terms of Service) (emphasis added).

¹²⁵ Ex. 20 (Terms of Service).

¹²⁶ 15 U.S.C. § 1681b.

¹²⁷ 15 U.S.C. § 1681b.

¹²⁸ *Trans Union v. FTC*, No. 00-1141 (D.C. Cir. 2001), *cert. denied*, 536 U. S. ____ (2002).

¹²⁹ *Id.* at 811.

¹³⁰ *Id.* at 819.

VI. Prayer for Investigation and Relief

EPIC urges the CFPB to investigate Rocket Money for its unfair, deceptive, and abusive trade practices under Section 1036(a)(1)(B) of the Consumer Financial Protection Act. The CFPB should find that Rocket Money (A) uses dark patterns to deceive users into giving up private financial data without meaningful notice, (B) forces users to link their bank accounts with Plaid, a known abuser of consumer data, (C) deceives users into paying for services that were marketed as free, (D) falsely advertises its data protection practices, (E) deceives users into paying a higher fee for Bill Negotiation services, (F) charges an unfair and abusive fee for Bill Negotiation services, (G) perpetuates an abusive refund service for Bill Negotiation, and (H) does not actually return Bill Negotiation customers' money constitute

Additionally, EPIC urges the CFPB to investigate Rocket Money's use of consumer reports and to find that by sharing consumer reports with other Rocket Family entities and third parties without a "permissible purpose," Rocket Mortgage is in violation of Section 604 of the FCRA.

With these findings, EPIC urges the CFPB to:

- a. Initiate an investigation into the business practices of Rocket Money, including how it handles consumer data;
- b. Require Rocket Money to comply with FCRA;
- c. Require that Rocket Money correct its abusive and unfair practices with regards to its onboarding process and Bill Negotiation services;
- d. Require that Rocket Money provide a more fair and accessible refund service for its Bill Negotiation services; and
- e. Provide such other relief as the CFPB finds necessary and appropriate.

Respectfully Submitted,

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