

New York City Proposes Sweeping Rules for Automated Customer Service Systems, Including Mandatory AI Disclosure and Access to Human Representatives

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The New York City Department of Consumer and Worker Protection (DCWP or Department), on October 20, 2026, [proposed rules](#) that would impose significant new requirements on businesses using automated customer service systems, including AI-powered chatbots.

“Customer service” means assistance by a merchant to a consumer, in response to an inquiry from such consumer, regarding a product, service, account, refund, billing matter, complaint, cancellation request, fraud claim, or dispute in relation to the sale or purchase of a good or service. The proposal would require businesses to disclose at the outset of an interaction that consumers are communicating with an automated system rather than a human representative, prohibit certain failures to provide meaningful customer service, and establish a rebuttable presumption of deceptive and unconscionable trade practices when businesses fail to provide consumers with a specified means of accessing human assistance.

It would also impose detailed recordkeeping obligations, including retention of records for at least three years, and establish a penalty schedule for specified violations. In addition, DCWP proposes to make explicit that businesses cannot escape responsibility for violations of applicable New York City laws by attributing the offending conduct to technology. Businesses covered by the proposed rule would seem to include not only those which have a physical location in New York City but also out-of-state businesses who communicate with New York residents through any means, including the internet. Out-of-state national banks may have a federal preemption argument that they need not comply with the new rule if the National Bank Act preempts the rule, which is uncertain. It is even less certain whether the Riegle-Neal Interstate Banking Act would provide out-of-state state banks with a basis for arguing that they need not comply with the rule. State-chartered banks chartered by New York state would seem to be subject to the rule.

The proposal reflects a broader regulatory concern that businesses increasingly are using automation to reduce customer service costs without ensuring that consumers can obtain meaningful assistance when they encounter billing problems, unauthorized charges, defective products, refund disputes, cancellation requests, or other issues that automated systems cannot adequately resolve.

Mandatory Disclosure That Consumers Are Interacting With an Automated System

Proposed Section 5-312(a) would make it a deceptive trade practice for a business to use an automated customer service system in a covered interaction unless the business “clearly and conspicuously discloses” that the consumer is interacting with an automated system and not a human representative. The disclosure must be provided at the beginning of the interaction and in the language being used for the interaction.

The proposed definition of an “automated customer service system” is broad: it covers any technology used to provide customer service where all or substantially all communication to the consumer is made by the technology rather than by a natural person. The definition therefore is not limited to generative AI or large language models. Depending on how the rule is interpreted,

it could reach traditional automated telephone systems, rules-based chatbots, and other systems that handle substantially all customer communications without human involvement.

DCWP explains that consumers should know from the outset whether they are communicating with a machine because automated systems may be unable to resolve complex inquiries and may provide incorrect or irrelevant information. According to the Department, upfront disclosure will help consumers adjust their expectations and seek an appropriate alternative more quickly, when necessary.

The disclosure requirement is separate from the proposal's requirements concerning the availability of human assistance. Merely telling consumers that they are communicating with an automated system would not, by itself, satisfy the proposed rule.

A Rebuttable Presumption Favoring Access to a Human Representative

The proposal's most consequential feature may be its approach to human assistance.

Proposed Section 5-312(b) would make it a deceptive and unconscionable trade practice for a business to represent that customer service is available but then fail to provide it in a reasonable and timely manner. The rule identifies repeated and unreasonable conduct during an automated interaction as evidence of such a failure, including directing consumers to menus that do not adequately address their inquiries or responding with "unresponsive, irrelevant, or erroneous information."

Proposed Section 5-312(c) would establish a rebuttable presumption that a business has engaged in a deceptive and unconscionable trade practice under subsection (b) if it uses an automated customer service system but fails to offer the consumer an option to interact with a human representative in one of the following specified ways.

The first option is a "single-step transfer mechanism." The business would have to identify clear and accessible options, such as a button, voice command, or menu selection, that initiates a transfer to, or queuing for, a human representative. The consumer could not be required to complete additional automated steps, answer additional questions, justify the request, or navigate further menus before the transfer, except for a process used solely to route the consumer to the appropriate human representative. If the consumer is placed in a queue, the business must provide an estimated wait time. It is unclear whether the business must provide the estimated wait time just once when the consumer has elected to speak to a human representative or periodically while the consumer is waiting. It is also unclear whether the business has the option of stating where the consumer stands in the queue.

The second option applies when a human representative is unavailable or the queue is unreasonably long. In that situation, the business must provide instructions for accessing an alternative means of obtaining human assistance. The proposed alternatives include:

- Disclosing the hours during which the consumer can reach a human through the single-step transfer mechanism.
- Providing a telephone number and the hours during which a human representative can be reached.

- Offering live chat through the business’s website or application, with the applicable hours.
- Allowing the consumer to leave a message and request an email or text response, or a callback, with a stated response timeframe.
- Providing a contact form, text-message number, or email address through which the consumer can obtain a response from a human representative, together with the timeframe for that response.

The rebuttable presumption is important. The proposal does not simply impose an unconditional requirement that every interaction be transferred to a human. Instead, it identifies specified ways to provide access to human assistance and creates a presumption of a violation when the business fails to provide one of those options. The presumption would operate within the prohibition on failing to provide customer service in a reasonable and timely manner.

For businesses relying heavily on automated systems, the practical question will be whether their current escalation procedures, staffing arrangements, and alternative contact channels satisfy these requirements in actual operation—not merely whether a human-assistance option appears somewhere on a website.

Businesses Could Not Advertise Customer Service Through a Channel That Does Not Provide It

Proposed Section 5-311 addresses representations about the availability of customer service through particular communication channels.

It would be a deceptive trade practice for a business to represent that customer service is available by telephone, email, or another communication channel if the business does not actually provide customer service through that channel. The proposal also clarifies that merely listing contact information does not constitute such a representation unless the information is accompanied by language indicating that customer service is available through the disclosed channel. Examples include “customer service,” “contact us,” or similar wording.

This provision could have implications for businesses whose published contact information directs consumers to a channel that does not meaningfully address customer inquiries, or whose websites suggest that a channel offers customer service when it does not.

Extensive Recordkeeping Requirements

The proposal would require businesses using automated customer service systems in covered interactions to create and retain records demonstrating compliance for at least three years. Records would have to be maintained in a machine-readable format and produced to DCWP upon request.

The required records would include documentation concerning the automated systems used, including agreements, contracts, licenses, development or installation documents, and records showing when each model was used.

Businesses also would have to maintain logs of covered interactions containing information sufficient to show:

- The duration of each interaction.
- Whether a single-step transfer mechanism was offered.
- Whether the consumer activated that mechanism.
- Whether the consumer was transferred to a human representative, placed in a queue, or given an alternative means of obtaining human assistance.

In addition, businesses would have to compile aggregate data at least annually. That data would include the total number of covered interactions; the number resolved without use of a single-step transfer mechanism; the number involving a consumer who had engaged in another covered interaction during the preceding 72 hours; the number in which consumers activated the transfer mechanism; the number resolved without consumer-initiated transfers; and the average duration of interactions.

Records of disclosures made at the beginning of interactions and records documenting alternative means of obtaining human assistance also would be required.

These obligations could be particularly significant for businesses using third-party customer service platforms or multiple systems across products, brands, and business units. Compliance may require coordination among legal, compliance, customer experience, technology, and records-management personnel. Businesses should also evaluate whether their vendors can provide the logs and other documentation necessary to demonstrate compliance.

Technology Would Not Excuse Violations of Existing Law

The proposal separately would add Section 5-02 to Title 6 of the Rules of the City of New York, providing that the use of technology is not a defense to a violation of requirements within DCWP's jurisdiction.

The provision expressly covers technology that makes claims, representations, or offers; omits statements or information; undertakes a violative act; or assists in furthering a violation.

DCWP explains that the provision is intended to make clear that the use of a particular technology has never provided a safe harbor under the New York City Consumer Protection Law or other laws within the Department's jurisdiction.

The provision is technology-neutral in its wording and is not confined to AI. It would reinforce the Department's position that a business remains responsible for conduct carried out through automated systems, even when a vendor developed or operates the technology. Businesses therefore should not assume that allocating responsibility to a technology provider will eliminate their own regulatory exposure.

This provision reiterates a [Joint Statement](#) dated October 1, 2026, published by DCWP and two other New York City agencies that an entity cannot avoid responsibility for violations of law because of reliance on an algorithm, AI, or other technology.

Penalties for Noncompliance

The proposed penalty schedule would establish the following penalties for the specified violations:

Violation	First violation	Second violation	Third and subsequent violations
Failure to provide customer service through a represented communication channel	\$525	\$1,050	\$3,500
Failure to disclose or adequately disclose use of an automated customer service system	\$525	\$1,050	\$3,500
Failure to provide promised customer service	\$525	\$1,050	\$3,500
Failure to maintain or produce required records	\$525	\$1,500	\$3,500

The proposal states that a second or subsequent violation is determined by reference to a prior violation by the same respondent or its successor within two years. It also provides that each separately charged provision may constitute a separate violation. Consequently, the potential exposure may depend on the number and nature of the violations alleged, rather than simply on whether a business has violated the rules at all.

What Businesses Should Do Now

Although the rules remain proposed, businesses serving New York City consumers should consider using the rulemaking period to assess their automated customer service practices. Although the proposed rules do not specify an effective date, businesses should assume that the rules will become effective immediately upon issuance in final form. Based on an opinion piece written by DCWP Commissioner Sam Levine which was published October 21 in the [New York Times](#), it appears that the intent of DCWP is to make the rules applicable to communications with consumers during the upcoming holiday shopping season, which may mean that the rules will be adopted as emergency rules under the City Administrative Procedure Act

We recommend that such an assessment should include:

- **Inventory automated customer service systems.** Identify the systems used across telephone, web, application, email, and chat channels, including third-party platforms and systems that rely on generative AI.

- **Review disclosures.** Determine whether each covered interaction begins with a clear and conspicuous disclosure, in the language being used, that the consumer is communicating with an automated system rather than a human representative.
- **Test escalation pathways.** Confirm that a consumer can initiate the specified single-step transfer mechanism without navigating additional automated processes or providing a justification. Review estimated wait-time disclosures and the alternative means of reaching a human when representatives are unavailable or queues are unreasonably long.
- **Evaluate customer service performance.** Test whether systems repeatedly direct consumers to irrelevant menus or provide unresponsive, irrelevant, or erroneous answers. Establish procedures to identify recurring failures and correct them.
- **Review channel-specific representations.** Ensure that websites, applications, and other materials do not represent that customer service is available through a channel that does not actually provide it.
- **Assess recordkeeping capabilities.** Determine whether the business can retain the required interaction logs, disclosure records, system documentation, and annual aggregate data in machine-readable form for at least three years.
- **Review vendor arrangements.** Consider whether contracts and operational procedures enable the business to obtain required records, monitor performance, investigate complaints, and respond to regulatory inquiries.
- **Consider comments to DCWP.** Businesses and trade associations may wish to identify provisions that need clarification, including the scope of covered systems, the operation of the rebuttable presumption, the meaning of reasonable and timely customer service, and the technical requirements for recordkeeping.

Industry and Consumer Advocates Disagree Over Whether NYC's Proposed Chatbot Rules Will Help Consumers

The proposal has already prompted a sharp debate over whether requiring businesses to provide access to human customer service will meaningfully protect consumers or instead increase costs without improving outcomes. The debate is particularly interesting because the critics include Professor Adam Levitin of Georgetown University Law Center, one of the most prominent and respected academics in consumer protection, who has frequently advocated stronger consumer protections. In this instance, however, he questions whether the proposed rules will benefit consumers at all.

Professor Adam Levitin: The Rule Could Hurt the Consumers It Is Intended to Help

In an October 20 post on *Credit Slips* entitled “[How Does Mandating Human Customer Service Help Consumers?](#)”, Professor Levitin challenges the premise that frustrating automated customer service necessarily presents a market failure warranting government intervention.

Levitin acknowledges that chatbot “doom loops” are annoying, but argues that annoyance alone does not establish a need for regulation. In his view, customer service generally is an ancillary service that businesses provide without a separate charge, rather than a product for which

consumers ordinarily shop or pay extra. He contends that competition, customer reviews, and the prospect of losing business can provide adequate incentives for merchants to offer satisfactory service.

More fundamentally, Levitin questions whether the proposed rules will improve the substance of customer service. A human representative may be no more helpful than a chatbot if the representative must follow a rigid script, lacks authority to resolve the consumer's problem, or is otherwise unable to provide meaningful assistance. As he observes, getting through to a human does not necessarily resolve a billing dispute, warranty claim, return request, or technical-support problem.

Levitin also argues that the proposal could increase costs throughout the economy. Faced with potential penalties, businesses may decide that maintaining human customer service is less risky than relying on automated systems. Those additional costs, he predicts, will ultimately be passed along to consumers through higher prices, including consumers who rarely or never use customer service and would prefer lower prices to the ability to reach a human representative.

His criticism is not that AI should be immune from regulation. Rather, he questions whether this particular intervention will improve social welfare. He concludes that the proposal mandates what he characterizes as costly procedural rights without establishing a corresponding substantive benefit for consumers.

Levitin also points to existing federal protections for certain billing disputes and warranties, arguing that the better response to deficiencies in particular markets may be to address inadequate competition or specific substantive consumer-protection problems rather than impose a general customer-service mandate.

His analysis raises a fundamental question for DCWP: Is access to a human representative itself a meaningful consumer protection, or should regulation focus more directly on whether the consumer's underlying problem is resolved?

Business Representatives Raise Questions About Scope, Costs, and Uncertainty

The business community has also raised concerns. [Bloomberg Law](#) reported that Steven Fulop, president and CEO of the Partnership for New York City, questioned how regulators would determine whether a chatbot had actually resolved a consumer's problem. He warned that the proposal's lack of a firm definition of what constitutes a failure to provide customer service could increase litigation risk and business costs, potentially worsening affordability concerns.

That criticism goes to an important feature of the proposal. Although the draft identifies repeated and unreasonable use of irrelevant menus or unresponsive, irrelevant, or erroneous answers as problematic, it does not establish a precise metric for determining when customer service has failed to meet the required standard of reasonable and timely service. Businesses may therefore face difficult questions about how to evaluate automated interactions, document compliance, and determine when an unsuccessful interaction creates regulatory exposure.

The proposal also reaches beyond generative AI to automated customer service systems generally, including rules-based chatbots and telephone systems. Its potential reach, together with the three-year recordkeeping requirements and per-violation penalties, makes the implementation burden a legitimate subject for the rulemaking process.

Consumer Advocates and Former Regulators Support the Proposal

On the other side, the Mamdani administration has received support from consumer-protection advocates and former regulators.

Stephanie T. Nguyen, a senior fellow at Columbia Law School's Center for Law & the Economy and former FTC Chief Technologist, [argued](#) that automated systems can create the illusion of assistance while leaving consumers trapped in loops of incorrect answers and unresolved problems. She endorsed the proposal's premise that businesses should remain accountable when they use AI and that customer service must meaningfully serve customers.

Adam Teitelbaum, a senior fellow at Protect Borrowers and former director of the Office of Consumer Protection at the D.C. Attorney General's office, similarly [argued](#) that poor customer service can violate consumer-protection law regardless of the technology used. He praised the proposal for putting businesses on notice that they remain responsible for the consequences of outsourcing customer service to AI and for giving enforcement authorities a clearer framework for addressing violations. He also urged other jurisdictions to follow New York City's lead.

These supporters emphasize that the problem is not simply consumer irritation. An inability to obtain meaningful assistance can delay refunds, frustrate efforts to correct billing errors, impede cancellation requests, and prevent consumers from resolving disputes involving important goods and services. From this perspective, disclosure and a practical route to human assistance are safeguards against businesses using automation to make consumer complaints more difficult to pursue.

The Central Question: Process Rights or Meaningful Consumer Relief?

The emerging debate is not simply a contest between businesses that favor AI and consumer advocates who oppose it. It concerns what government should require businesses to provide when consumers encounter problems with products or services.

Supporters argue that consumers should not be misled into believing that meaningful customer service is available when an automated system cannot address their inquiries, and that businesses should offer a practical means of reaching a human when automation fails. Critics question whether requiring that means of access will actually resolve consumer problems, whether the resulting costs will be passed on to consumers, and whether existing consumer-protection laws and competitive pressures already address much of the problem.

Levitin's criticism deserves particular attention because it focuses on the ultimate objective of consumer-protection regulation: improving consumer welfare. The fact that a human representative may be unhelpful does not necessarily establish that access to a human has no value. But neither does the frustration caused by automated systems establish that a broad regulatory mandate will produce better outcomes.

DCWP will have an opportunity to address these competing concerns during the comment period. Among the questions worth examining are whether the rule should distinguish among types of consumer complaints, how regulators should determine whether an interaction has failed to provide reasonable and timely service, what evidence should rebut the presumption of a violation, and whether the proposed recordkeeping and escalation requirements are proportionate to the consumer harms they are intended to prevent.

The ultimate test should be whether the final rule improves consumers' ability to obtain meaningful relief without imposing costs that outweigh those benefits. That is the standard against which the proposal, and the arguments of both its supporters and its critics, should be evaluated.

Public Hearing and Deadline for Comments

Hearing Date and Time: November 19, 2026 at 11:00 a.m.

- To participate via phone, dial +1 646-893-7101
 - Phone Conference ID: 886 506 734#
- To participate via videoconference, visit <https://tinyurl.com/5e2m7k2c>
 - Meeting ID: 213 525 864 272 361
 - Passcode: PC7nd79A

Read more on the proposed rules and how to submit comments at nyc.gov/nycrules. Comments must be submitted on or before November 19, 2026. Anyone wishing to speak at the hearing must sign up in advance or before the hearing begins and may speak for up to three minutes.

A Violation of the Final Rule Could Result in Private Liability to Consumers under the POWERS Act (if it is Enacted in its Present Form by New York City Council) in Individual, Class Action and Private Attorney General Lawsuits as well as Similar Lawsuits by Non-Profit Organizations for Unfair, Deceptive, Abusive or Unlawful Acts or Practices

We recently [blogged](#) about the bill introduced by New York City Council which, if enacted as presently written, could result in consumers and non-profit organizations initiating lawsuits in New York City state courts for certain violations of the final rule and recovering actual damages and up to a \$2,500 statutory penalty per violation. The bill proscribes unfair, deceptive, abusive and unlawful acts or practices and an “unlawful” practice which would seem to cover a violation of the final rule. The bill authorizes individual, class action and private attorney general actions. The bill also authorizes certain non-profit organizations, like the publisher of Consumer Reports, to initiate lawsuits under similar circumstances.

Conclusion

New York City's proposal seems certain to establish a substantial framework for the DCWP to regulate and enforce automated customer service, combining mandatory disclosure, meaningful access to human assistance, prohibitions on misleading representations about customer service availability, detailed recordkeeping, and penalties for specified violations. It also underscores DCWP's view that businesses remain accountable for conduct undertaken through technology. In the POWERS Act is enacted, private litigation for violations of the rule may also happen.

Several other states, including California, have already enacted or are considering legislation to regulate chatbots. To our knowledge, New York City's proposed rule has the potential to be the first law of its kind anywhere in the country.

The proposal's significance lies not in prohibiting automation, but in conditioning its use on transparency, meaningful customer service, and the ability to demonstrate compliance. Businesses that rely on automated systems should begin evaluating their practices now, while the proposed rules remain open to public comment.

The Rule is just the latest of numerous regulatory and enforcement initiatives undertaken by DCWP under the leadership of Commissioner Sam Levine.