

Enforcement Tools Spectrum

From broadest guidance to most case-specific assurance

BROADEST / MOST GENERAL

NARROWEST / MOST SPECIFIC

Advisory Opinion	Prosecutorial Guidance	Non-Prosecution Policy	No-Action Letter	Rule Change
				
What it Is Interpretive guidance about how existing rules may apply.	What it Is Public statement explaining enforcement priorities and what conduct is viewed as lower risk.	What it Is Generally applicable policy that the regulator will decline to pursue UPL in defined situations.	What it Is Narrow, case-specific statement that the regulator does not intend to take enforcement action.	What it Is Formal amendment of the UPL rules themselves through the rulemaking process.
Scope General — addresses categories of conduct, not specific actors.	Scope General — signals priorities across a category of activity.	Scope General — applies to a class of conduct meeting stated conditions.	Scope Narrow — addresses a particular tool, provider, or fact pattern.	Scope Varies — may reach one provider, one activity, a new license tier, or the whole market.
Mechanism Interpretive, not enforcement based. Clarifies the law.	Mechanism Enforcement discretion. States what will be prioritized.	Mechanism Enforcement discretion. Commits to not prosecuting if conditions or any safe harbors are met.	Mechanism Enforcement discretion, applied on a case-by-case basis after factual review.	Mechanism Rulemaking, not discretion. Alters the underlying legal standard.
Assurance to the Recipient Informational only	Assurance to the Recipient Persuasive, not binding	Assurance to the Recipient Genuine commitment, revocable	Assurance to the Recipient Strongest case-specific signal	Assurance to the Recipient Binding law — a true safe harbor

Key distinction: The first four tools operate through existing regulatory discretion; only a rule change alters the underlying UPL rules.

A non-prosecution policy may not be a legal safe harbor; it cannot be invoked as a defense in a civil suit by a private party.

Adapted from *Prosecutorial Guidance and Non-Prosecution Policies: A Pragmatic Path Forward for AI in Legal Services* | iaals.du.edu/ai_toolkit