



## Evolving Legal and Regulatory Landscape for Lead Generation

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## Agenda

- Introduction
- Federal Trade Commission: Increased Scrutiny on Internet and Telemarketing
- Consumer Financial Protection Bureau and Lead Generation
- Federal Consumer Protection Working Group
- Sector Specific Regulation on the Rise



## The Legal and Regulatory Landscape



## What's the cost of noncompliance?



Are your and your vendor's advertising and marketing consistent with the requirements of applicable laws, regulation, and policies, including sector specific requirements?



## FTC Increases Scrutiny on Internet and Telemarketing Lead Generation

- Recent enforcement actions have focused on such areas as:
  - robocalling,
  - DNC violations (as a result of calling purchased leads),
  - negative-option marketing, and
  - offers to consumers in financial distress (debt relief, loan modification, groceries),
  - sale of credit reports,
  - "free" trial offers,
  - and more...
- FTC Investigations and Enforcement Actions frequently target direct marketers and third-party vendors involved in marketing, payment processing, etc.
- FTC Act
- Telemarketing Sales Rule
- Credit Repair Organizations Act
- Guide for Use Endorsements and Testimonials
- CAN-SPAM Act
- Several specific laws previously enforced by the FTC were transferred to the CFPB (e.g., Fair Debt Collection Practices Act, Gramm-Leach Bliley Act (Privacy))



## The Consumer Financial Protection Bureau



Source: [www.Consumerfinance.gov](http://www.Consumerfinance.gov)

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## What does the CFPB Means for Lead Gen?

1. **Prohibition on unfair, deceptive, and abusive practices** related to consumer financial products and services, as well as **providing "substantial assistance"**
  2. **Supervision and Examination of private student lenders, mortgage, payday loans, debt collectors and consumer reporting companies**, as well as their **vendors** including advertising and marketing
  3. **Focus on military and veterans, older Americans**
  4. **Investigations and Enforcement**
- **Who falls under the CFPB:**
    - Banks, thrifts, and credit unions
    - Nonbanks, including:
      - Debt Relief Providers
      - Payday Lenders
      - Mortgage loan originators and servicers
      - Real estate settlement companies
      - Debt Collectors
      - Consumer Reporting
      - Consumer Credit and Related Activities
      - Money Transmitters
      - Check Cashers
      - Financial and Investment advisors
      - Financial data processors
      - Currency exchangers
  - **Laws enforced by the CFPB include:**
    - Consumer Financial Protection Act
    - Truth in Lending Act
    - Fair Debt Collection Practices Act
    - Fair Credit Reporting Act
    - Real Estate Settlement Procedures Act
    - and more...

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## Federal Consumer Protection Working Group

- Goal: Coordination of efforts to regulate and combat consumer fraud.
- Focus: consumer fraud, including **payday lending and other high pressure telemarketing or Internet scams, business opportunity schemes, for-profit schools, and third-party payment processors**
- Attorney General Eric Holder said that the partnership "will strengthen our collective efforts, enhance civil and criminal enforcement of consumer fraud and educate the public in an effort to prevent consumers from being victimized in the first place."
- Members:
  - Department of Justice
  - Federal Trade Commission
  - Consumer Financial Protection Bureau
  - Department of Treasury
  - Federal Banking Agencies
  - State Attorneys General

## Medium and Sector Specific Regulation and Enforcement on the Rise (Examples)

- **Private Lawsuits** increase with allegations of violations of telemarketing laws, CAN SPAM, junk fax, and general unfair and deceptive
- **Diet, Health and Beauty:** FTC scrutiny, "free" offers, negative option marketing, fake news sites
- **Mortgage:** State SAFE Act Licensing, New Disclosure Requirements, fake news sites
- **Direct Auto Lending:** CFPB initiatives expected
- **Payday Lending:** CFPB Supervision and Examination
- **Daily Deals:** FTC and state scrutiny of specific deals in regulated verticals, state and private lawsuits over terms and conditions and compliance with unclaimed property
- **Debt Relief:** FTC Telemarketing Sales Rule, CFPB Rulemaking, State Lawsuits
- **Private Student Loans:** CFPB initiatives: supervision and examination, and disclosures
- **Military:** CFPB Spotlight
- **Education:** New Department of Education Misrepresentation Rule

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