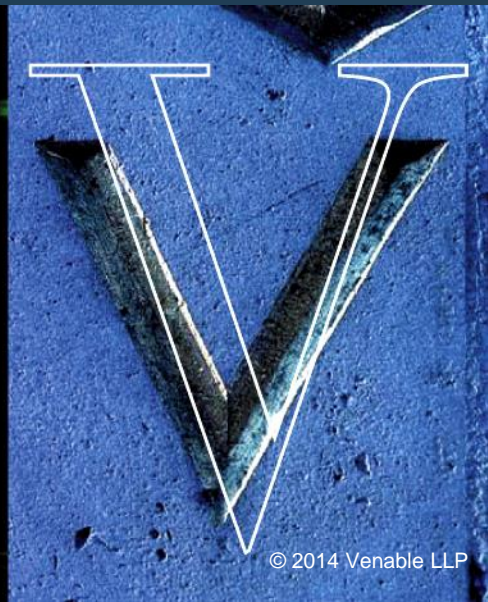
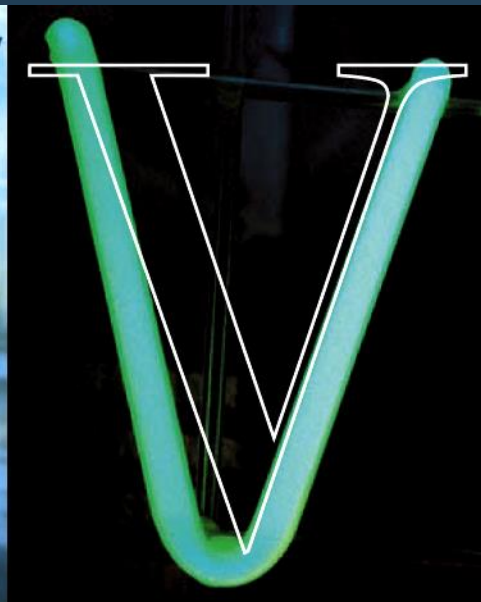
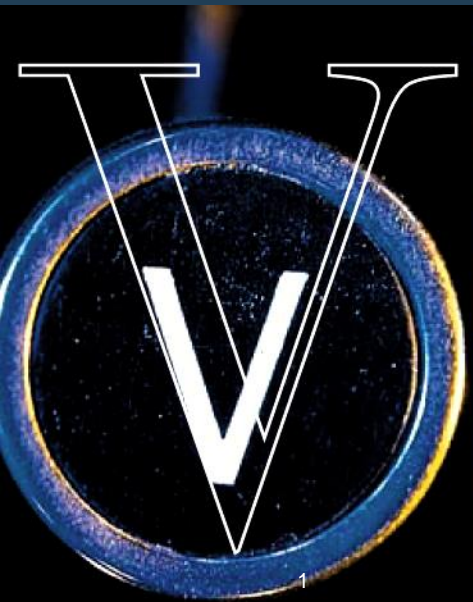


## Navigating CFPB, FTC, and State Attorneys General Consumer Protection Investigations

LeadsCouncil  
April 24, 2014  
2 pm – 3 pm ET  
Webinar

*Jonathan L. Pompan, Esq.*  
*Leonard L. Gordon, Esq.*  
*Alexandra Megaris, Esq.*  
Venable LLP



# Agenda

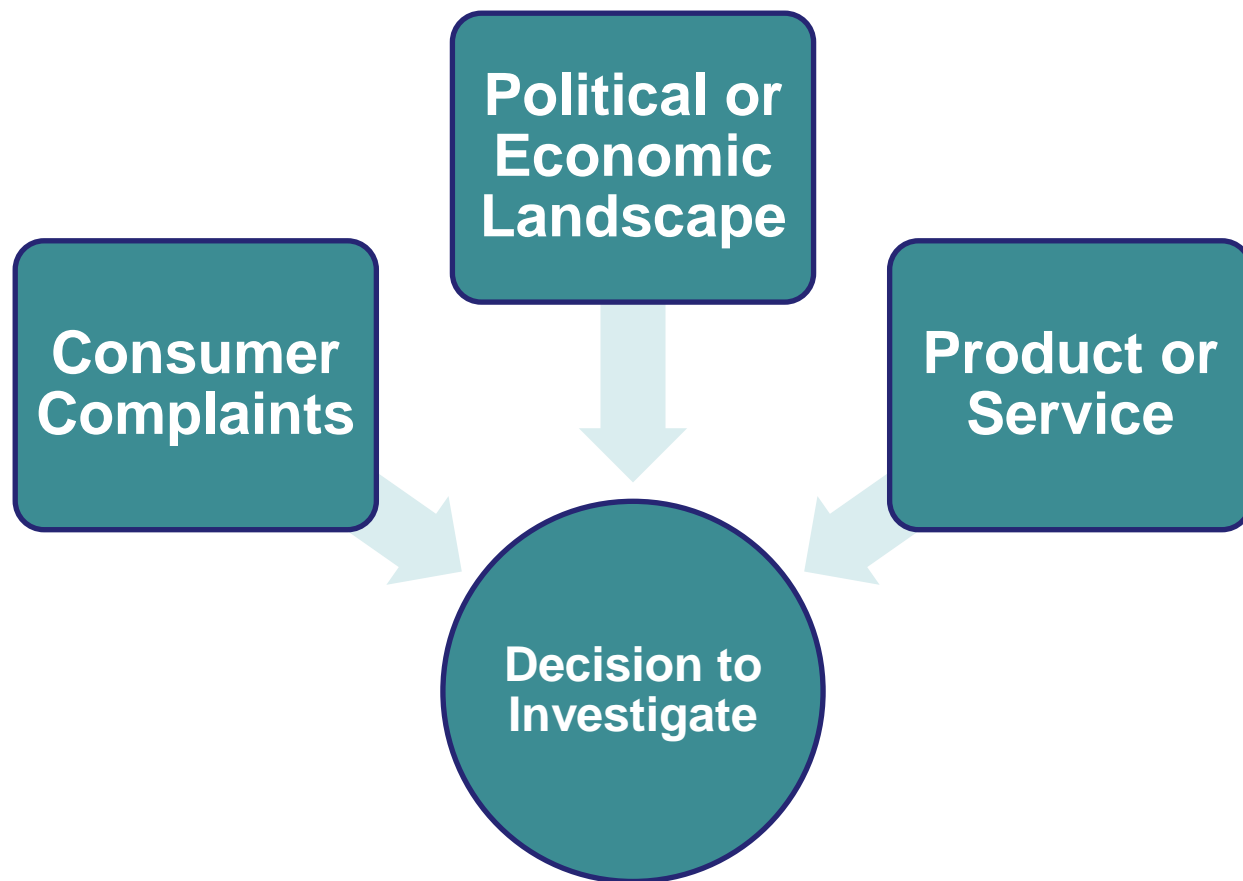
- FTC, CFPB, and State Attorneys General Enforcement Jurisdiction
- Unpacking the Enforcement Process
- Investing in Compliance to Prevent Scrutiny by Regulators and Enforcement Authorities
- Recent Trends and Developments in Consumer Protection Enforcement



# Who Enforces Advertising & Marketing Laws?



# Launch of an Investigation\*



\* Supervisory exams can often result in referrals to enforcement.



# Two Possible Paths: Notice or “No Notice”

United States of America  
Federal Trade Commission  
**CIVIL INVESTIGATIVE DEMAND**

TO: **F**

This demand is issued pursuant to Section 20 of the Federal Trade Commission Act, 15 U.S.C. § 57c-1, in the course of an investigation to determine whether there is, has been, or may be a violation of any laws administered by the Federal Trade Commission by conduct, activities or proposed action as described in item 3.

**2. ACTION REQUIRED**  
 You are required to appear and testify.  
 LOCATION OF HEARING: \_\_\_\_\_ YOUR APPEARANCE WILL BE BEFORE: \_\_\_\_\_  
 DATE AND TIME OF HEARING OR DEPOSITION: \_\_\_\_\_

You are required to process all documents described in the attached schedule that are in your possession, custody, or control, and to make them available at your address indicated above for inspection and copying or reproduction at the date and time specified below.

You are required to answer the interrogatories or provide the written report described on the attached schedule. Answer each interrogatory or report separately and fully in writing. Submit your answers or report to the Records Custodian named in item 4 on or before the date specified below.

DATE AND TIME THE DOCUMENTS MUST BE AVAILABLE: \_\_\_\_\_  
 (See 16 CFR 312.27).

**3. SUBJECT OF INVESTIGATION**  
 See attached notification.

**4. RECORDS CUSTODIAN/DEPOSITORY RECORDS CUSTODIAN**  
 Patricia T. New, Commissioner  
 325 Pennsylvania Ave., N.W., Room NJ-2212  
 Washington, DC 20540

**5. COMMISSION COUNSEL**  
 Richard M. Gorman, Commissioner  
 445 Pennsylvania Ave., N.W., Room NJ-2212  
 Washington, DC 20548

DATE ISSUED: 7/29/11 COMMISSIONER'S SIGNATURE: [Signature]

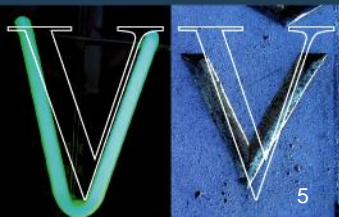
**INSTRUCTIONS AND NOTICES**  
 The delivery of this demand to you or any method prescribed by the Commission's Rules of Practice is final notice and your failure to comply may result in the issuance of a subpoena or other legal process to compel compliance. If you are unable to comply with the demand, you should advise the Commission in writing as soon as possible. If you are a natural person, you are advised that you may be held liable for the costs and attorney's fees incurred by the Commission in enforcing this demand. This demand does not constitute an order of the Commission or the Federal Trade Commission.

**YOUR RIGHTS TO REGULATORY ENFORCEMENT FAIRNESS**  
 The FTC has a longstanding commitment to fair and open enforcement proceedings. If you are a small business, you have the right to request a hearing before the Small Business Administration's Patent Ombudsman, which may help you resolve your dispute with the FTC. You should understand, however, that the National Ombudsman cannot change the law or create additional rights or remedies for you. If you wish to request a hearing, you should contact the Small Business Administration's Patent Ombudsman at 1-800-368-5929 for more information.


**PETITION TO LIMIT OR QUASH**  
 The Commission's Rules of Practice require that you file a petition to limit or quash this demand together with a \$5,000 cash deposit, or if the amount due is less than \$5,000, with an affidavit filed by the party filing the petition and verified by the party, to the Secretary of the Federal Trade Commission, and one copy with the records custodian named in item 4.

**FEES AND COSTS**  
 Use the enclosed request for information to which you are entitled as a party to this proceeding. The request must be filed with the clerk of the Federal Trade Commission's Commission Office. If you are permitted to file a request for information, you will receive a copy of the request and the information requested from you. In response, you may get your request from the Commission's Office.

FTC Form 144 (rev. 2/95)



# What to Expect When You are Under Investigation

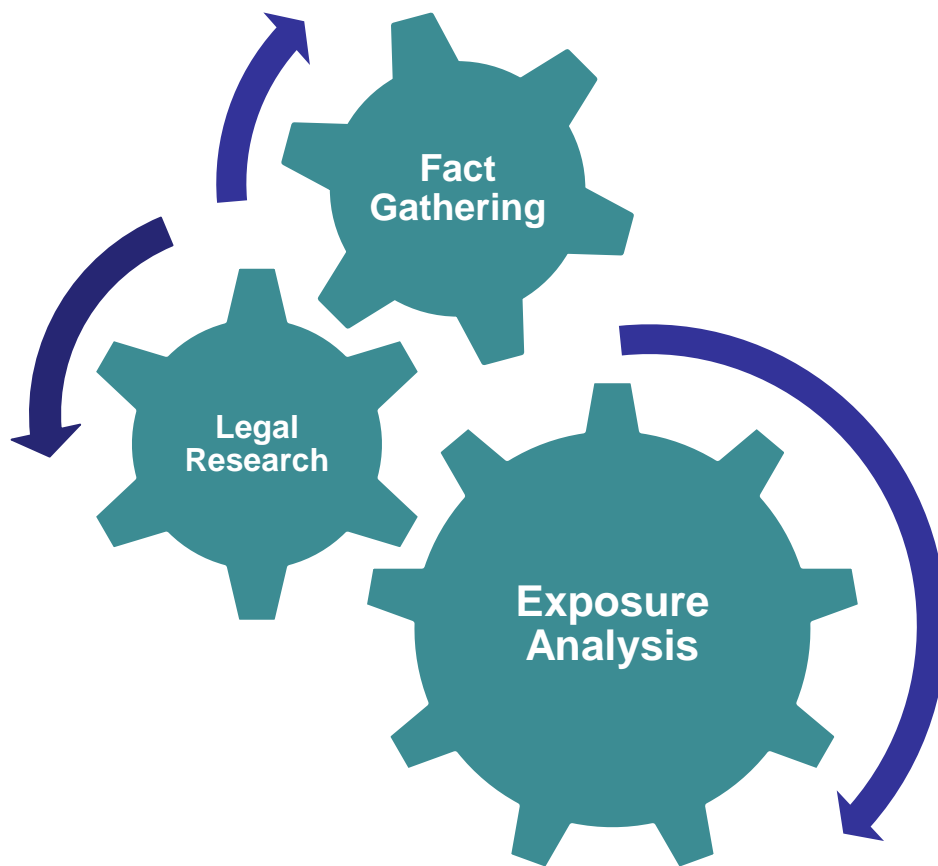
- 
- Receipt of CID or civil subpoena
  - Assessing its scope
  - Weigh options

- 
- Engaging with enforcement staff to limit burden and understand basis for investigation

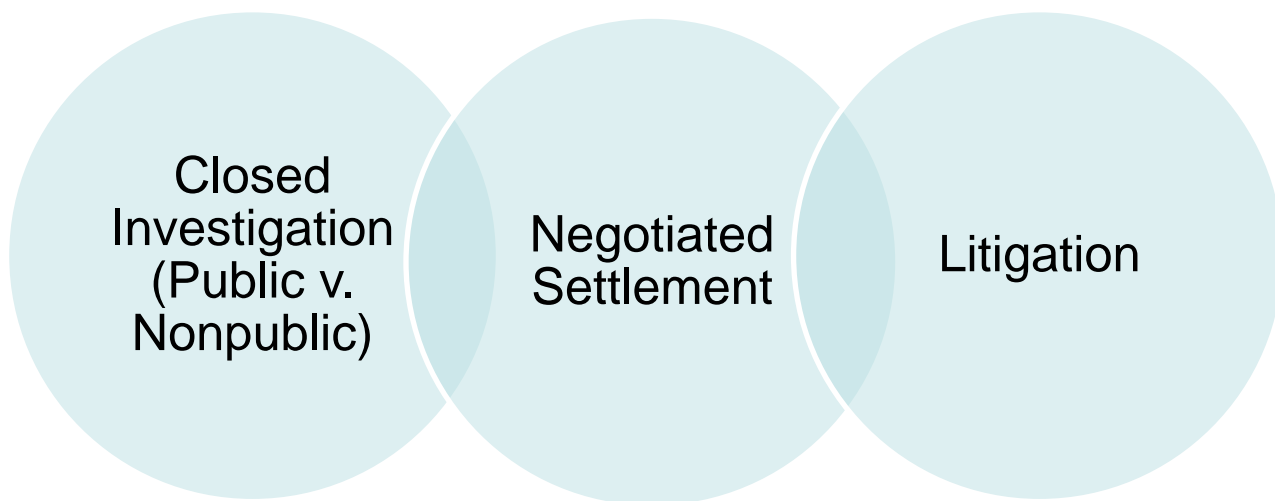
- 
- Record hold
  - ESI considerations
  - Collection, review, and production of documents



# Preparing the Defense



# How Does a Government Investigation Typically Play Out?





# Cost of Noncompliance



# Investing in Compliance



# Hot Topics in Consumer Protection Enforcement

Consumer financial  
products and services.

Commercial robocalling  
and Do Not Call rules.

Liability for violations of  
your business partners.



# Contact Information

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t 212.370.6210

For an index of articles and presentations on lead generation other advertising related legal topics, see [www.venable.com/leads/publications](http://www.venable.com/leads/publications).

[www.Venable.com](http://www.Venable.com)

