



WiFiAccessCode: LEADSPEDIA | Follow at #leadscon

Wednesday, 1:30 – 2:10pm

## Navigating a Path to Self-Regulation: Strategies to Bring to Lead Generation

### **SPEAKERS:**

- Sandy Brown, Assistant Director, Financial Practices, Federal Trade Commission
- C. Lee Peeler, President & CEO, Advertising Self-Regulatory Council and EVP, National Advertising, Council of Better Business Bureaus
- Jonathan Pompan, Partner, Venable LLP

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Advertising Self-Regulatory Council  
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*A service of the advertising industry and Council of Better Business Bureaus*

## Introduction

1. How did we get here?
2. Federal Trade Commission and Lead Generation Advertising
3. Self Regulation – What is it, and how does it help?
4. Discussion

## How we got here...

- Use of Lead Generation is increasing...
- Scrutiny of facial lead generation advertising, data use, and vertical specific regulation is on the rise... (e.g., FTC, CFPB, Dept. of Ed., SSA OIG, state Attorneys General, state financial services and insurance regulators)...
- Self-regulation by the industry may make it easier for buyers and sellers of inquiry based advertising to do business.

## Traits and Benefits for Effective Self Regulation

1. Prompt, flexible, and responsive
2. Adaptable.
3. Helps increase compliance.
4. Process and outcomes can be flexible to market.
5. Realities of the market.
6. Increases confidence.
7. Financial incentives.



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FEDERAL TRADE COMMISSION  
PROTECTING AMERICA'S CONSUMERS

ABOUT THE FTC | NEWS & EVENTS | ENFORCEMENT | POLICY | TIPS & ADVICE | I WOULD LIKE TO...

News & Events | Press Release | FTC Announces Workshop to Examine Online Lead Generation

### FTC Announces Workshop to Examine Online Lead Generation

FOR YOUR INFORMATION

July 22, 2015

TAGS: Internal Internet(s) | Issues of Consumer Protection | Consumer Protection | Online Advertising and Marketing | Privacy and Security

The Federal Trade Commission will hold a workshop on October 28, 2015, to explore the growing use of online lead generation in various industries, including consumer lending and education.

Lead generators identify or evaluate consumers most interested in a product or service, and sell the consumer "lead" information to third parties. For example, an educational issuer in the interest for grants and services may target specific interest in specific topics, such as educational programs, strategies, or small dollar loans, and submit that personal information to the lead generator. The borrower leads sometimes contain sensitive personal and financial information that may be sold through multiple online marketing and lead buying, reaching the desired business.

The workshop, "Follow the Lead: An FTC Workshop About Online Lead Generation," will gather a variety of stakeholders, including industry representatives, consumer advocates, and government regulators, to discuss consumer protection issues raised by the practices of the lead generation industry, such as:

- How online lead generation works and its operations, depending on the industry;
- What types of lead generator conduct may be unlawful under the FTC Act's prohibitions against unfair or deceptive practices;
- Best practices for entities that generate and sell consumer leads; and
- How consumers can avoid unlawful conduct in the above marketplace.

The FTC is seeking research recommendations for discussion topics, and requests for comment in advance of the

**Related Actions**  
Follow the Lead: An FTC Workshop on Lead Generation

**For Consumers**  
Blog: Are you following the "lead"?

**For Businesses**  
Blog: Using services?

**Submit a Comment**  
Post a Comment  
Deadline: September 28, 2015

**Media Resources**

[www.ftc.gov](http://www.ftc.gov)



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Advertising Self-Regulatory Council

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Supporting Self-Regulation

Welcome to the website of the Advertising Self-Regulatory Council  
A service of the advertising industry and the Council of Better Business Bureaus

[www.asrcreviews.org](http://www.asrcreviews.org)





# FEDERAL TRADE COMMISSION

Sandhya Brown, Assistant Director  
Division of Financial Practices  
Bureau of Consumer Protection

# OVERVIEW

- (1) The FTC's Role
- (2) Enforcement History (briefly)
- (3) Fall 2015 Workshop

# FTC's Enforcement Authority

- FTC Act
- Broad jurisdiction
- Section 5
  - Deception
  - Unfairness
- Rules – e.g., TSR, MAP

# Deceptive Claims to Consumers

- Who is making the offer  
*(FTC v. Mallett)*
- What is being offered  
*(FTC v. GoLoansOnline.com)*
- Security of Consumers' Personal Data  
*(FTC v. ValueClick)*

# Deceptive Claims to Consumers

## LIABILITY OF:

- Publisher
- Affiliate Network
- Service Provider

*(FTC v. LeanSpa, FTC v. Five Star Auto)*

# Unfair Sale of Sensitive Data

PRIVACY

## When Online Loan Applications Lead to Unauthorized Bank Account Debits

By NATASHA SINGER | AUGUST 12, 2015 11:48 AM | 17 Comments

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Thousands of cash-strapped Americans who filled out applications for payday loans on sites with names like [paymelans.com](#) instead found their financial details had been used to make unauthorized debits or credit card charges, according to an investigation by federal regulators.

The Federal Trade Commission on Wednesday morning said it had charged two information resale companies with illegally selling the payday loan applications of more than 500,000 consumers. The third parties that bought the information



Jessica Rich, director of the Federal Trade Commission's consumer protection bureau. Chip Somodevilla/Getty Images

## Unfair Sale of Sensitive Data

- Confidential Phone Records  
*(FTC v. Accusearch)*
- Payday Loan Applications  
*(FTC v. Sitematch, FTC v. Sequoia One)*
- Debt Portfolios  
*(FTC v. Cornerstone, FTC v. Bayview Solutions)*

# FTC Workshop: “Follow The Lead”

October 30, 2015, Washington, DC



## **Follow the Lead**

An FTC workshop on Lead Generation





## FTC Workshop: “Follow The Lead”

- Hear from industry members
- Understand more about the mechanics of lead generation in different verticals
- Identify consumer protection issues
- Learn about best practices

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**Follow the Lead**



## **Follow the Lead**

An FTC workshop on Lead Generation

Friday, October 30, 2015  
400 7<sup>th</sup> Street, SW, Washington, DC  
[leadgen@ftc.gov](mailto:leadgen@ftc.gov)



# Self-Regulation of Lead Generation Claims

Lee Peeler  
President & CEO, ASRC  
EVP, National Advertising, CBBB

# The Advertising Industry's Self-Regulatory System

**44 years of success**

“Domestically, the FTC views robust self-regulation as an important tool for consumer protection that potentially can respond more quickly and efficiently than government regulation.”

— Edith Ramirez, Commissioner, Federal Trade Commission, Nov. 29, 2012, *Federal Trade Commission Workshop on Enforceable Codes of Conduct: Protecting Consumers Across Borders*



## Core Elements

- Strong Standards – Tell the truth
- Impartiality – Administered by BBB
- Transparency – Decisions are public
- Accountability – Referral to FTC if non-compliant

# Advertising Industry Self-Regulation

## Advertising Self-Regulatory Council

### **National Advertising Division (1971)**

Truth and accuracy of national advertising claims

### **Children's Advertising Review Unit (1974)**

Advertising directed to children

### **Electronic Retailing Self-Regulation Program (2004)**

Truthful direct response marketing & telemarketing/seminars

### **Online Interest-Based Advertising Accountability Program (2010)**

Regulates online behavioral advertising

## ERSP Process

- Advertising comes to the attention of ERSP through its monitoring of the marketplace and consumer and competitive challenges
- Process
  - Opening Letter
  - Marketer's Reply
  - ERSP Reply
  - Marketer's Response
  - Final Decision
  - Marketer's Statement
  - Press Release
- ERSP final decisions and press releases are published in the ASRC Online Archive

# Telemarketing and Lead Generation

- In 2012, ERSP initiated a program to monitor and review lead generation advertising and telemarketing of the coaching and mentoring industry
- In 2013, ERSP further expanded the program to review recordings of free live seminar events
- Participants provide ERSP with access to telesales calls and/or seminar recordings; must be Electronic Retailing Association (ERA) members
- Continuous ongoing review of lead generation advertising



# Lead Generation Advertising

- As part of the ERSP Review Program, ERSP has made a concerted effort to monitor lead generation advertising
  - Closed 29 cases to date
  - Referred 10 cases to FTC to date
- Inquiries are initiated by ERSP through its own monitoring and also brought by challengers
- Cases follow established *ERSP Policy & Procedures*

## ERSP Referrals to FTC

- Life Without Limits, Inc. (Million Dollar Edge), Case #294, June 20, 2012
- Maverick Enterprises, LLC (Maverick Money Makers), Case #297, August 10, 2012
- MarksEnterprise.com, Inc. (Super Affiliate Lab), Case #310, February 25, 2013
- The Info Marketing Group, Inc. (The Mini Site Formula), Case #312, April 2, 2013
- Premium Web Marketing, Inc. (Review Riches), Case #301, October 22, 2012
- Richatlast.com (Richatlast.com), Case #317, May 8, 2013
- Hazel Peppergood, Inc. (Hazel Peppergood), Case #320, June 24, 2013
- Internet Secrets (The 7 Day Test), Case #321, June 24, 2013
- MobileMoneyCode.Net (Mobile Money Code), Case #354, September 25, 2014

# Challenges for the Future

- New focus on lead generation practices
- Clear legal standards on deception
- Choice – more government enforcement? Or stronger industry effort to police itself?

**Thank You**